

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 9, 2004

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 9, 2004, at 12:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Morris K. Dunlap, Chair (in @ 1:24); Harold Warner Jr. Vice-Chair; James Barfield; Darrell Downing (out @ 5:07); John W. McKay Jr.; Bill Johnson (in @ 12:39); Bud Hentzen; Ronald Marnell; Bob Hernandez; Elizabeth Bishop (in @ 12:55); M.S. Mitchell; Denise Sherman (in @ 12:35); and Frank Garofalo. Gary K. Gibbs was not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Associate Planner; Jamsheed Mehta, Transportation Supervisor; David Barber, Land Use Supervisor; and Rose Simmering, Recording Secretary.

❖ MPO ITEMS

1. FY2005 Unified Planning Work Program (UPWP) – Adoption, and approving a Resolution and authorizing staff to implement the annual program.

JAMSHEED MEHTA Planning Staff presented the unified Planning Work Program. The (UPWP) is the MPO's document identifying projects, programs and initiatives for the fiscal year. The document is required by federal law, and is the basis for receiving and expending federal transportation planning funds.

Transportation Planning funds from the US DOT provide for the salary of nine (full-time equivalent) staff positions, and all other expenses of the Transportation Division, including transportation studies, contractals, commodities and capital outlays.

The UPWP has been presented to the MPO on November 18, 2004 for review and comment. At that time an official comment and review period began to assure public involvement in the development of the document. Comments will be received through December 3, 2004. The Technical Advisory Committee (TAC) also reviewed the draft UPWP on November 22, 2004 and recommended adoption. Resolutions have been presented/scheduled for the Board of Sedgwick County Commission and the City of Wichita City Council, which provide for an inter-local agreement authoring the MAPD to execute the UPWP.

Regarding the Long Range Transportation Plan, the update process has begun but it will not be completed by March 15, 2005. This date is important because after this date, the Plan will be over five years old and federal law requires that it be updated within the five year time frame. Once the Plan lapses, the MPO can not revise or amend the Transportation Improvement Program. Based on our understandings of the law, and after consultation with the federal officials, we feel that the lapsing of the plan will not affect active projects. We expect the Plan to be adopted by August 2005, and then the TIP can be amended without restrictions.

Recommendation: With this second presentation of the UPWP, the MPO is requested to:

1. Adopt the FY 2005 UPWP;
2. Approve the Joint Resolution providing the authority to execute the UPWP; and
3. Authorize the Chairman to sign the Record of MPO Action.

JAMSHEED MEHTA, The FY2005 UPWP is available on the Planning Department website.

WARNER Is there anyone in the audience here to speak today on this item? Seeing no public here to speak.

GAROFALO Are there any significant changes in this final document and the previous one that you should us?

MEHTA Probably some word changes but nothing substantial that changes the program or our work product.

MOTION

- 1) To Adopt the FY 2005 UPWP;
- 2) Approve the Joint Resolution providing the authority to execute the UPWP;
- 3) Authorize the Chairman to sign the Record of MPO Action.

MITCHELL moved, **DOWNING** seconded the motion, and it carried (11-0).

2. Public Involvement Policy (PIP) – Review, and declare a public comment/review period for 45 days.

JAMSHEED MEHTA Planning Staff present MPO Public Involvement Policy.

Federal regulations require that the MPO meet certain standards of public involvement in the preparation of the Long Range Transportation Plan, the Transportation Improvement Plan, the Unified Planning Work Program, and a range of special studies/programs. Included in the requirement are documents such as; transit studies, corridor studies, Congestion Management System programs, and Major Investment Studies.

The PIP is the MPO's guide describing how citizens, neighborhood associations, agencies, and transportation providers within the Wichita area can become involved in the transportation planning process. This includes transit users, freight transportation providers and major freight shippers, minority, elderly, disabled, and low to moderate-income groups, and any private citizen or agency representative. The MPO's goal is to provide citizens complete information, timely notification, and full public access to key decisions.

The PIP identifies the activities and processes intended to produce an effective, proactive public involvement program for the metropolitan transportation planning process, and for the development of the plans identified above. The Tool Box is the document that outlines specific minimum activities necessary to implement the Policy.

The PIP requires a 45 day comment and review period prior to adoption. This allows an opportunity for the public to provide meaningful input on the proposed policy. A public comment/review period is proposed to run from December 14, 2004 through January 30, 2005, and the final public hearing with proposed adoption of the PIP on February 10, 2005.

Recommendation: It is recommended that the MPO:

1. Review the draft Public Involvement Policy and provide comments to staff.
2. Establish December 14, 2004 through January 30, 2005 as the public comment and review period.
3. Set February 10, 2005 as the final public hearing date with proposed adoption of the PIP that same day.

GAROFALO On page 12, of the PIP Tool Box, it talks about the Citizen's Advisory Committees, is there a reason why the DAB's wouldn't satisfy that instead of having more committees?

MEHTA The DAB's is a committee of the City of Wichita and the Citizen's Advisory Committee is simply a suggestion here or a way to tap into certain topics that might have some more regional issues to discuss. If it was an MPO Item it is obviously regional and would involve Sedgwick County and 19 other cities so DAB's don't quite fit that format that we are hoping to get.

GAROFALO Would these committees be for a short period of time or will they be standing committee or just to discuss a particular item?

MEHTA On page 11, 12, and 13 is simply a listing of various formats and techniques to have public involvement done. Citizens Advisory Committees were mentioned in some of our discussions as possibly a way to take all your products, before it comes to you, and ask that Citizens Advisory Committee to review it.

WARNER Any other questions of comments? This is not a public hearing Item?

MEHTA Correct, the public hearing will be February 10, 2005.

MOTION

- 1) Review the draft Public Involvement Policy and provide comments to staff.
- 2) Establish December 14, 2004 through January 30, 2005, as the public comment and review period.
- 3) Set February 10, 2005 as the final public hearing date with proposed adoption of the PIP that same day.

MITCHELL moved, **GAROFALO** seconded the motion, and it carried (11-0).

3. Congestion Management System (CMS) – Review, and declare a comment period before final MPO action in January.

JAMSHEED MEHTA Planning staff present MPO Congestion Management System (CMS).

A Congestion Management System (CMS) identifies major areas of congestion and evaluates potential actions that can effectively reduce congestion. An MPO is required by federal law to have a CMS Policy that identifies methods of monitoring and evaluation of traffic flow, and provide a systematic method of seeking alternatives that best resolves the type of congestion.

The Wichita area CMS Policy was prepared with the assistance of the Federal Highway Administration and with input from the TAC. The proposed CMS Policy will provide the framework to make informed decisions resulting in the most effective and efficient use of limited resources that address congestion. The CMS Policy allows these decisions to be analyzed on a "network" level rather than a project-by-project level. The information from the CMS can also be used to support the project selection processes of future Long Range Transportation Plans and short-range Transportation Improvement Programs. A CMS "Tool Box," that provides alternative strategies instead of the traditional method of street capacity expansion, will be developed separately in 2005.

The CMS Policy requires a 30-day comment and review period prior to adoption. This allows an opportunity for the public to provide meaningful input on the proposed policy. A public comment/review period is proposed to run from December 14, 2004 through January 14, 2005, and the final public hearing with proposed adoption of the CMS on February 10, 2005.

Recommendation: It is recommended that the MPO:

1. Review the draft Congestion Management System document and provide comments to staff.
2. Establish December 14, 2004 through January 14, 2005 as the public comment and review period.

3. Set February 10, 2005 as the final public hearing date with proposed adoption of the Congestion Management System that same day.

GAROFALO Are there funds identified to support this and to implement this?

MEHTA The only thing where there is any real work outside of our office being done is by those who are already collecting traffic data. We have funds to do the Travel Time Surveys and the Travel Speed Studies, and we will hire an Intern to do that probably year around for the first year just to get the base information. The cost is in the UPWP already.

GAROFALO When do you expect the Consultants?

MEHTA Anytime in 2005, but it will probably be in the middle of the year.

BISHOP I note that in the cover memo it said that CMS Policy allows these decisions to be analyzed on a "network" level rather than a project-by-project level, and then in the CMS Coverage Area I don't see any reference to Greenwich Road.

MEHTA Every street designated as an arterial will be monitored which means traffic counts will be taken. The CMS Network is attachment #2 you see only a few streets identified, those are a higher volume.

BISHOP Greenwich Road does not show up.

MEHTA Yes, you are right because it doesn't have congestion right now. 111th is the same as Greenwich Road.

MOTION

- 1) Review the draft Congestion Management System document and provide comments to staff.
- 2) Establish December 14, 2004 through January 14, 2005 as the public comment and review period.
- 3) Set February 10, 2005 as the final public hearing date with proposed adoption of the Congestion Management System that same day.

MITCHELL moved, **DOWNING** seconded the motion, and it carried (12-0).

4. Transportation Improvement Program (TIP) – Consider inclusion of Woodlawn Project in the current TIP for program year 2008.

JAMSHEED MEHTA Planning staff T.I.P. Reconsideration - Request by the City of Bel Aire.

The MPO Chairman has received a letter dated November 4, 2004 from the Mayor of Bel Aire, Gary O'Neil, requesting the MPO to reconsider its October 21, 2004 decision (see Attachment 1). The MPO amended the Transportation Improvement Program (TIP) at that public meeting that included several new projects, additional funding for some existing projects, and withdrawing of federal funds from two existing projects. One of the projects withdrawn from the current TIP is the reconstruction of **Woodlawn Road** from 37th to 45th Street.

Background: The 2030 Transportation Plan identifies Woodlawn Road as a four-lane arterial facility. This project was first considered in 2000 for federal funding, with construction programmed in 2005. At Bel Aire's request, this project has previously been reprogrammed to 2007.

In a letter dated August 30, 2004, (see Attachment 2) Bel Aire's City Administrator requested that funding from the Woodlawn project be applied to a new project on 45th Street (from Oliver to Woodlawn). The letter also states that Bel Aire has rescheduled the original Woodlawn project to year 2013.

Federal law does not allow transferring federal funds between projects, and this issue was communicated to Bel Aire's representatives at the TAC meetings in July and August 2004. Further, as the TIP covers the period of 2004 through 2008, Bel Aire's revised date of 2013 places the Woodlawn project beyond the current TIP's five-year timeframe. Therefore the TAC recommendation to the MPO was to consider Woodlawn as a withdrawn project.

At the October 21, 2004 MPO meeting, Bel Aire requested that the TIP changes as recommended by TAC be tabled pending new selection criteria and reorganization of the TAC membership, and to reprogram Woodlawn from 2007 to 2008. However, the MPO voted to approve the TIP Amendment based on TAC's recommendations.

Mayor Gary O'Neal's request to reconsider the Woodlawn project was discussed at the TAC meeting on November 22, 2004. The Bel Aire City Administrator, Mr. Richard Gale, stated that it was not his intent to have the Woodlawn project removed from the five-year program, and that Bel Aire would want to continue designing the project as a minimum four-lane facility as originally planned.

The TAC voted to accept Woodlawn (37th to 45th) in the current TIP for year 2008 based on the fact that the four-lane facility will conform to the 2030 Transportation Plan. The TAC did not consider the effect this reprogramming would have on the distribution of federal funds in 2008.

On October 21, 2004, the MPO officially amended the TIP (2004-2008) with a federal fund deficit of \$8 million at the end of 2008 (see Attachment 3). If the MPO approves Bel Aire's request to place the Woodlawn project back into the TIP, then the projected deficit of federal funds will increase by an additional \$2.7 million.

Staff continues to advise the MPO that the TIP must be financially constrained for the initial three years. In next year's TIP, projects in 2006, 2007 and 2008 will be in the initial three-year period. At that time, if some projects are not withdrawn/ moved back or cancelled voluntarily by the sponsoring cities, then the MPO may have to move back projects to ensure that the TIP is financially constrained.

GAROFALO Why was this moved down to 2005 originally?

MEHTA It was initially identified for 2005 construction, a couple years later Bel Aire notified us that they would like to push it back to 2007 while they explore other options.

GAROFALO What is the estimated cost?

MEHTA The federal share was \$2.7 million and the total cost was \$3.7 million.

GAROFALO So if this were to be put back in, you're saying that we would have to remove something that would be equivalent in cost?

MEHTA This time next year we have to approve a new T.I.P. we will have done the new Long Range Plan and the current T.I.P. must be updated every two years. We do amendments but the update is every two years.

GAROFALO If we were to go along with the request of Bel Aire and put it back in 2008 we would have to remove something that is about equivalent in the cost?

MEHTA Not only something that is equivalent to \$2.7 million of their federal share but also the other \$8 million that you already got shown as over program, so it is nearly \$10.7 million of over programming if you went along with this additional project.

BARFIELD When we took this out of 2005 can you identify a project that was put in its place?

MEHTA It wasn't a one to one substitution, a project is withdrawn, or is changed on its own merits and other projects are introduced on their own merits. We would have to look at that year in which you did other changes, that wouldn't have been the only change when you made that amendment in the T.I.P. to shift projects. There were many projects that were added but we can't say that this substitutes just the other one.

BARFIELD Can you identify the traffic count on Woodlawn between 37th and 45th Street?

MEHTA On the south end it used to be in the range of 12,000. In the more residential area north of the railroad tracks it is less probably 7,000.

BARFIELD So we are going from 12,000 at 37th to about 7,000 on 45th either way isn't that abnormal amount of traffic for a two-lane street?

MEHTA It is a very high volume for the two-lane section where you have the 12,000 range traffic.

BARFIELD Earlier on the Agenda we talked about traffic congestion, certainly at 37th Street this would have to be considered a congested intersection and it is only going to get worse, I don't see it getting any better. At the time that we approved this for 2005 we were also considering a request to widen 37th Street and we choose to inject the 45th Street project as being more importance than the 37th Street project, I don't think anything has changed. The decision to withdraw Woodlawn, was that made at the request of Bel Aire, or was that a decision that was made by staff?

MEHTA We read attachment #2 and recognized it as Bel Aires request to move the project outside of the five-year program period.

I have underlined for you on attachment two a couple lines. Which reads "The 45th Street North application is requesting funding from the Woodlawn project currently slated for bid in 2007. The Woodlawn project as originally submitted has been rescheduled for improvement in 2013 in accordance with the adopted Bel Aire Transportation Plan." So we took that to mean 2013.

BARFIELD The traffic count for Pawnee from 119th to Maize?

MEHTA I don't have it off hand.

BARFIELD I am just looking at the cost of that project and it is \$3,675,000 would supercede the cost of the Woodlawn project and my personal view is depending on your response on the traffic count the Woodlawn project could be inserted and this project could be set back.

MEHTA It depends on what else is being done with the construction. With the Woodlawn project you have railroad to be taken care of some culverts, bridge situations. Also the Pawnee project is a widening of an existing four-lane to something even wider than that and may not require the same amount of utility relocation and other features in it.

BISHOP If we were to decide to leave the T.I.P. as it is today, at what point could Bel Aire come back and ask for inclusion of the Woodlawn project for another year?

MEHTA The earliest would be as soon as the Long Range Transportation Plan is approved we are then okay to proceed with amendments or updating the T.I.P. and that has to be approved by December next year.

RICHARD D. GALE City Administrator for The City of Bel Aire. I am here to request that the project be put back into the program. The City of Bel Aire has prepared a Bel Aire Transportation Plan and has placed projects into various priorities based upon the approximate 2500 acres of land that has been added to the City of Bel Aire over the last two years as it has annexed additional properties. We knew that we had to prepare and put together a Transportation Plan that made sense for our City. We have submitted that Bel Aire Transportation Plan to the MPO and to the Planning Department and we have not had the opportunity nor the time to sit down and discuss that but it should happen over the next year as you are putting together your T.I.P. for adoption next December.

We will be discussing not only the Woodlawn project but three other project that have been submitted this year that did not make the grade according to your criteria. Those projects and possibly others will be coming back again in the future. We will be discussing with you not only the future Transportation Plan but also the criteria by which you judge your projects. We in Bel Aire have an aggressively growing community and we have transportation needs and we will be here before you on many occasions in order to discuss the priority of those projects.

I believe that the letter that was sent was interpreted as us requesting that the project be removed and that was not the letters intent. If you look at the letter in full context it basically states that in the Bel Aire Transportation Plan the project would be a 2013 plan and not a 2007 Plan. Previously when the City of Bel Aire began to expand its boundaries we moved the project from 2005 to 2007, and there was a specific letter sent to the MPO requesting that change to 2007, so that we could address and prepare our Transportation Plan to ensure that the money and the transportation needs of the City are being met properly so we put our money where the most appropriate needs are as well as met the transportation projection needs.

What has not been done, as you will be doing over the next year, the City of Bel Aire is expanding, and we have new developments that have been going on that is going to change the transportation flow in Bel Aire and that is what we have been looking at internally.

Your plan calls for Woodlawn as a four-lane and our plan calls for Woodlawn as a three-lane and we need to get with our staff and Jamsheed's staff and sit down and decide what is the most logical solution to that expansion based upon the other roads that we have annexed into the City as well as our Land Use Plan that will determine what future transportation needs we will have in the City.

MITCHELL Mr. Gale do you recognize that in 2008 there may not be funds for this project?

GALE Yes. We participate in the TAC and we are aware of that. That is not unusual in the transportation planning process you will find that next year you will determine what projects in 2008 will actually be selected. Bel Aire could come back and say we are ready for this, or that, and the MPO may decide it is not ready. Somebody else may pull their project out and move it back. The MPO may have to decide that there is enough money to do so many projects and the MPO will move somebody back.

MITCHELL If I remember correctly your Engineer indicated that Rock Road would be your main north/south thoroughfare, do you think that there is a chance that before we get the Woodlawn project that you will change and want Rock Road to be financed?

GALE Well Rock Road will need to be financed. Bel Aire has moved from a central part and probably be more focused at the 45th Street area as well as 37th to 45th where right now there is a new development been Woodlawn and Rock Road. The Bel Aire City Hall which is an anchor to the new 400 acre development that is under construction now. Also planned at the corner of Rock Road and 53rd Street a new downtown Bel Aire. As you know Bel Aire has no downtown but there is a 27 acre parcel that has preliminary design and engineering for utilities that have already been put in place for the future construction of a commercial center which will eventually become the Bel Aire downtown.

MITCHELL Are you indicating that you are looking at a new standard?

GALE Not a new standard, it is just the STP program that provides a relatively broad range of availability for projects to be improved. Let's say that we wanted to do a major overlay of an existing road you mentioned Rock Road. Rock Road needs to be improved and I would tell you that today's improvement would be improving shoulders on the road because it is still a narrow county style road and putting a new road base on it and then it would be good for another 10 years. We know that kind of project qualifies under the federal STP program, however the MPO criteria has focused on capacity enhancement. What you will hear from Bel Aire is that we would like the MPO to consider those projects as well in your review and planning because most small cities are not going to run out there and build a four lane road.

SCHLEGEL The TAC recommendation was to put this project back into the TIP in the year 2008.

BARFIELD That is as a four-lane project?

SCHLEGEL That is a four/five lane project, yes.

MOTION: To concur with the TAC recommendation and put the Woodlawn project back into the TIP for the year 2008.

BARFIELD moved, **MITCHELL** seconded the motion, and it carried (11-1-1). **BISHOP** opposed, **DUNLAP** abstains because of his late arrival at today's meeting.

JAMSHEED MEHTA Planning staff - MPO Certification Review.

Officials from the US Department of Transportation will provide a status report on the MPO's efforts to meet the federal requirements and recommendations.

Background: The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) conducted the Wichita Certification review on September 17-19, 2003. The final report was issued January 29, 2004, and presentation of the findings was made to the MPO Policy Board on April 8, 2004. There were seven findings from this review; 1 with a corrective action, 5 with recommendations, and 1 commendation.

The 2003 federal review generated concerns that were primarily due to several staff vacancies. In the last few months, we have filled three planning positions, and significant progress has been made in the transportation planning work program.

Recommendation: Receive input from US DOT officials.

BYRON LOW, Federal Highway Administration (FHA) Back on April 8, 2004, myself, and Joan Roeseler of FTA made a presentation of the results of our Certification Review Finding. At that time there was several recommendation and corrective action.

CORRECTION ACTION: Timely Completion of Work Products/Staffing

RECOMMENDATION: Technical Advisory Committee (TAC) Meetings

Action Needed: None. The recommendation is considered resolved.

RECOMMENDATION: MPO Board Representation and Boundary Designation.

Action Needed: The Policy Board needs to take appropriate action on the planning boundary and board structure by March 15, 2005. As the Governor's designee, KDOT must also approve the boundary revision and committee structure. The other items can be worked on later but should be completed by the end of 2005.

RECOMMENDATION: TIP Project Selection Process.

Action Needed: the Long Range Plan needs to be updated. Final project selection criteria must be adopted and used in the next major TIP update, which is December 2005.

RECOMMENDATION: Advancement of TIP Projects.

Action Needed: Although we consider this recommendation resolved, KDOT Local Projects and the MPO need to continue to ensure the timely obligation of federal funds.

RECOMMENDATION: 2000 Certification Recommendation.

Action Needed: Status of Public Involvement. The final draft PIP needs to be brought to the Policy Board for approval to allow it to go out for a 45-day comment period followed by formal adoption. This recommendation will be resolved once the MPO Policy Board adopts the PIP. Target date for adoption is February 2005.

Action Needed: Status of Congestion Management System. Adoption of CMS Plan by Policy Board.

JOAN ROESELER of Federal Transit Administration (FTA) – I want to mention the importance of the March 15th, and March 16th date for the Long Range Transportation Plan. Many MPO's go through a lot of effort to try to avoid having a lapse in the plan because that does mean that no changes can be made to the T.I.P. during that time frame. If you met your schedule and the lapse is only from March to August that wouldn't have as big an impact as if it went on for like a year.

Also the adjustment you will be making to the official committees. Many MPO's that we have worked with that sometimes when they have a mixture of appointed and elected officials on the Boards that it helps with the effectiveness.

❖ **PLANNING COMMISSION ITEMS**

6. Approval of November 18, 2004 meeting minutes.

MOTION: To approve the November 18, 2004 meeting minutes.

GAROFALO moved, **MITCHELL** seconded the motion, and it carried (13-0).

❖ **SUBDIVISION ITEMS**

7. Consideration of Subdivision Committee recommendations from the meeting of November 19, 2004.

- 7-1. **SUB2004-118 – One-Step Final Plat – SOUTH HIGH SCHOOL THIRD ADDITION, located north of MacArthur and on the east side of Seneca.**
Subdivision Approved on 9-16-04,
vote (2-1) MAPC deferred 9-17-04;

NOTE: This is an unplatted site located within the City. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees or additional easements are needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. As drainage will be directed onto I-235, a letter shall be provided from KDOT indicating their agreement to accept such drainage.**
- D. **Traffic Engineering** needs to comment on the access controls. The plat proposes complete access control along Seneca. Complete access control should be denoted along I-235. **Access controls are approved.**
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. The Park and Pathways Plan indicates a bike path along the south line of the plat. A public access easement (20-ft minimum width) should be platted at this location. **Subdivision Committee approved this condition along with a Hold Harmless Agreement. The Applicant and City staff should meet to discuss feasibility of this easement. The Applicant and City staff have agreed not to include a Hold Harmless Agreement.**
- H. The Applicant has platted a 5-ft building setback, which represents an adjustment of the Zoning Code standard of 25 feet for the SF-5, Single-Family Residential District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. **The setback modification has been approved.**
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Q. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

Neil Strahl Planning staff – At the Subdivision Committee meeting one of the major issues that was originally discussed was Item (G) regarding a bike path along the south property line. The applicant originally requested a Hold Harmless Agreement from the City regarding that bike path and subsequent to that meeting the applicant has retracted their request for that and decided not to

pursue the Hold Harmless Agreement. However, they have platted the 15-ft access easement along the south property line in accordance with staff's request.

BISHOP Item (G) says a 20-foot access easement.

STRAHL It will be a 15-foot access easement.

TERRY SMYTHE – We are in agreement with staff comments and the 15-foot access easement.

MOTION: To approve, with the correction to Item (G) to a 15-foot access easement along the southern property line of the plat.

HENTZEN moved, **JOHNSON** seconded the motion, and it carried (13-0).

7-2. **SUB2004-138 – Final Portion of Overall Preliminary Plat – SOUTHERN RIDGE THIRD ADDITION, located south of Pawnee and on the west side of Maize Road.**

NOTE: An overall preliminary plat was approved for this site in October 2002. This plat consists of the south portion of the overall preliminary plat and represents the third phase of development. This plat is consistent with the overall preliminary plat in regards to street configuration, although several lot widths have increased.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer (main and laterals) and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac (64-ft) streets.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- F. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- G. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- H. **GIS** needs to comment on the plat's street names. **Street names need to be revised.**
- I. The right-of-way width for Dallas St. is incorrectly depicted.
- J. Prescott Ct. should be denoted as a 58' right-of-way.
- K. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the

protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- U. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (13-0).

7-3. **SUB2004-127 – One-Step Final Plat – MAY FIELD FIRST ADDITION, located west of West Street and south of Harry.**

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. Fees in lieu of assessment regarding water and sewer lateral connections are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. An off-site drainage agreement is needed.
- D. The plat proposes one emergency access opening along Anna Street. Complete access control should be dedicated along the remainder of the frontage.
- E. The turnaround should be dedicated as street right-of-way for May. A Temporary street dedication may be platted for the north and south portions of the turnaround.
- F. The applicant shall guarantee the installation of the turnaround for May Street.
- G. A petition shall be provided for future half-street paving.
- H. A Block and Lot shall be denoted on the face of the plat.
- I. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

NEIL STRAHL Planning staff at our Subdivision meeting the applicant was required per Item (G) to submit a No Protest Agreement for the future paving of Anna. Originally they told me they would be appealing that condition today, however just prior to the meeting today they have reached an agreement with City Engineering and they will be providing a petition for their share of that paving, that would be a half-street right-of-way along the frontage on Anna.

BISHOP Instead of a No Protest Agreement they are providing a Petition?

STRAHL That is correct. We would hold that for the future paving until that would be activated.

TIM AUSTIN, POE & ASSOCIATES Agent We are in agreement with staff comments as presented today.

MOTION: To approve, subject to staff comments and a change to Item (G) for a Petition.

BISHOP moved, **GAROFALO** seconded the motion, and it carried (13-0).

7-4. **SUB2004-130 – One-Step Final Plat – SOONERS ADDITION, located on the north side of 47th Street South and east of Hydraulic.**

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. Fees in lieu of assessment regarding water and sewer lateral connections are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **An off-site drainage agreement is needed.**
- D. The plat proposes one emergency access opening along Anna Street. Complete access control should be dedicated along the remainder of the frontage.
- E. The turnaround should be dedicated as street right-of-way for May. **A Temporary street dedication may be platted for the north and south portions of the turnaround.**
- F. The applicant shall guarantee the installation of the turnaround for May Street.
- G. A No Protest Agreement for the future paving of Anna is needed.
- H. A Block and Lot shall be denoted on the face of the plat.
- I. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage

easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (13-0).

7-5. **SUB2004-131 – One-Step Final Plat – WILSON MEADOW ADDITION, located south of 53rd Street North and east of Seneca.**

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact City Environmental Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. Due to groundwater contamination in the area, any water wells approved for permits by City Environmental Health Department shall be limited to irrigation purposes only.
- B. City water services are available. City Water and Sewer Department requests a petition for future extension of sanitary sewer services.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan shall be provided prior to MAPC meeting.
- E. Access controls need to be platted along Arkansas. Traffic Engineering has approved one access opening for Lot 2. The final plat shall reference the dedication of access controls in the platlor's text.
- F. Traffic Engineering has requested 10-ft additional right-of-way along Arkansas, which is classified as an arterial. The Access Management Regulations requires a 60-ft half-street right-of-way width along urban arterials.
- G. The signature line for the City Clerk needs to be revised to reference "Karen Sublett".
- H. The MAPC signature block needs to reference "Morris K. Dunlap, Chair".
- I. County Surveying has advised that Lot 1 does not close.

- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (13-0).

7-6. **SUB2004-137 – One-Step Final Plat – DOWN WIND ESTATES ADDITION, located on the west side of 143rd Street East and on the north side of 71st Street South.**

NOTE: This is unplatted property located in the County. It is in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a Conditional Use (CON 2004-14) to permit an airport use.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. **County Code Enforcement needs to comment on the feasibility of buildable lots for lots 4, 5 and 6 with floodway constraints.**
- B. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A flood study and drainage plan are needed. Minimum pads may be required based on the drainage plans. The Applicant shall obtain appropriate permits from DWR for channel obstruction. Additional drainage easements are needed across Lots 7 & 8 in the northwest corner of the plat.**
- E. **Sedgwick County Public Works** requests the Applicant provide bridge-sizing data for private drives and runways crossing the drainage ways.

- F. Propane tanks and signage along 143rd St. East shall be removed from public right-of-way.
- G. The existing structures located within the southwest corner of the site encroach within the proposed 30' ingress/egress easement.
- H. **County Engineering** needs to comment on the access controls. The plat denotes eight openings along 143rd St. East and one opening along 71st St. South. **Four openings along 143rd St. East are approved – a shared opening for Lots 1, 2 and 3, one opening for Lot 4, a shared opening for Lots 5 & 6, and one opening for Lot 8 the location of which shall be determined by County Engineering. The access opening on 71st St. South shall be located between 150' and 400' from the west line of plat.**
- I. Private drives and ingress/egress easements shall be in accordance with Sedgwick County Service Drive Code.
- J. Per **Sedgwick County Fire Department**, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).
- K. **County Engineering** has requested a major intersection right-of-way at 143rd St. East and 71st St. South along with a triangular corner clip in accordance with Access Management Regulations.
- L. The location of the arterial right-of-way lines needs to be corrected.
- M. A Block shall be designated on the face of the plat as referenced in the plat's text.
- N. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- O. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 1-7. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- P. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is in the party now shown on the final plat.
- Q. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-ft utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Z. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.

- AA. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (13-0).

7-7. **SUB2004-134 – One-Step Final Plat – E.R. & C.M. ADDITION, located on the north side of 21st Street North and east of 135th Street West.**

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "2010 Urban Service Area" by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a zone change (ZON 2004-09) from SF-20, Single-Family Residential to NR, Neighborhood Retail subject to platting. A Protective Overlay #137 was also approved for this site addressing permitted uses.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. Municipal water services are available. Fees in lieu of assessment regarding water connections are required.
- C. **City Water and Sewer Department** requests a petition for future extension of sanitary sewer main and laterals.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan and grading plan are needed. All portions of property below elevation 1346 should be shown in a floodway reserve. A minimum pad on Lot 1 will be 1348.**
- F. A benchmark is needed on the final plat.
- G. **County Engineering** needs to comment on the access controls. **County Engineering requests alignment of the proposed opening with the driveway across 21st St. North.**
- H. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).
- I. A PO Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PO and its special conditions for development on this property.
- J. The MAPC signature block needs to reference "Morris K. Dunlap, Chair".
- K. The Applicant is advised that if platted, the building setback may be reduced to 20 feet in accordance with the Zoning setback standard for the NR, Neighborhood Retail District.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet

with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

NEIL STRAHL Planning staff presented the staff report.

BISHOP Are we platting this prior to the zoning being approved?

STRAHL The zoning to "NR" Neighborhood Retail was approved subject to platting.

DUNLAP What is the difference between the elevations from the southeast corner to the northwest corner? It looks pretty hilly.

STRAHL Perhaps the applicant could address that.

DUNLAP They explained it to me. It is one-foot increments.

MARK SAVOY This was approved by the Subdivision Committee, and the only change that I am willing to make voluntarily is that I am willing to put that floodway reserve easement on there unless we happened to get a removal prior to completion of platting.

RAY BOESE, 13414 W 23rd North The Commissioner asked a question about zoning and on May 19th 2004, the BOCC approved this for a Neighborhood Retail photography shop only. We have a flood problem, and I own the property to the north. My question was what are you going to do with this property with all this water, and the comment was that we will send it to the neighbor on the east though there is a county floodplain and I am right on the edge of it, and I don't want that to be happening on my property.

MITCHELL If an application is made to fill in that mapped floodplain, it will have to go to the State for approval and all adjacent landowners will be given an opportunity to comment.

BISHOP I note that Condition (E) says that a drainage plan and grading plan are needed. Are those still needed?

STRAHL No, my understanding is that those have been received.

BISHOP The drainage plan has been received. Can anyone report what the County Engineer's opinion was of drainage plan was?

STRAHL I know that it has been received. I don't know that it has been approved by County Engineering.

BISHOP I have a problem approving a plat if drainage is the central issue and we don't have a report from County Engineering.

MCKAY It is subject to that.

MOTION: To approve, subject to staff comments and Subdivision's recommendation.

MITCHELL moved, **DOWNING** seconded, the motion, and it carried. (12-1-0). **BISHOP** opposed.

7-8. **SUB2004-135 – One-Step Final Plat – SIGWING ADDITION, located east of 391st Street West and north of 47th Street South.**

NOTE: This is unplatted property located in the County. It is in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Cheney Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed.**
- D. The 50-ft offsite ingress/egress easement shall be established by separate instrument and shall be in accordance with Sedgwick County Service Drive Code. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument. In the event this easement has been recorded, the plat shall denote recording data and a copy of the easement shall be provided to MAPD.
- E. A covenant shall be submitted regarding the private ingress/egress easement, which sets forth ownership and maintenance responsibilities and limits the private drive to servicing no more than three residential lots.
- F. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- G. The MAPC signature block needs to reference "Morris K. Dunlap, Chair".
- H. The pipeline easement needs to be located.
- I. The Applicant shall receive agreement with Aquila Gas for crossing the pipeline easement.
- J. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the County.
- K. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- L. The recording information for all pipeline easements shall be indicated on the face of the plat.
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- V. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**

- X. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (13-0).

7-9. SUB2004-136 – One-Step Final Plat – CLEMONS ACRES ADDITION, located on the west side of Meridian and north of 101st Street North

NOTE: This is unplatted property located in the County. It is in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Valley Center Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval. The Applicant shall meet with **Sedgwick County Code Enforcement** concerning use of onsite sewers.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed.**
- D. **County Engineering** needs to comment on the access controls. The plat denotes two openings along Meridian. **County Engineering requests access control except one opening to Lot 1. An ingress/egress easement shall be established across the panhandle of Lot 1 to provide a shared drive.**
- E. **GIS** requests that “Meridian” be spelled correctly.
- F. All access drives shall be in accordance with Sedgwick County Service Drive Code.
- G. The MAPC signature block needs to reference “Morris K. Dunlap, Chair”.
- H. If platted, the building setback for Lot 1 should be measured from the interior lot line between Lot 1 and Lot 2.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- R. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility

easements to be platted on this property. **Westar Energy has requested additional easements.**

- S. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (13-0).

❖ **SUBDIVISION ITEMS**

8. Consideration of Subdivision Committee recommendations.

8-1. **SUB2004-143 – One-Step Final Plat – PRAIRIE CROSSING SECOND ADDITION, located on the south side of Central and west of 151st Street West.**

NOTE: This is a replat of the Prairie Crossing Addition – a Lot Bundling development. This replat eliminates 11 of the 13 bundles and vacates contingent street dedications. The plat is in an area designated as “2030 Urban Service Area” by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Goddard Area of Influence.

Since this plat is located in an area where public services are planned to be available for higher density development, “lot bundling” has been provided for the northern portion of the plat so that two building sites may be readily converted to urban-scale lots without replatting.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. The Applicant proposes alternative on-site sewer systems.
- B. The site is currently located within the Rural Water District No. 4. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection.
- C. Petitions have been provided with Prairie Crossing Addition for future sewer and water improvements. **City Water and Sewer Department** has requested new guarantees.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A revised drainage plan shall be provided that reflects new lots and ownership.**
- F. A benchmark is needed.
- G. **County Engineering** recommends an access easement be provided between Lots 3 and 4, Block 2 to Reserve A for use by Lots 1, 2, 5, and 6, Block 2.
- H. The contingent street dedication for Shade St. should be included within the lot boundary of Lot 11, Block 2 and Lot 14, Block 1.
- I. Per **Sedgwick County Fire Department**, applicant needs to meet standards for Sedgwick County Service Drive Code.
- J. The Applicant shall submit a restrictive covenant tying together Lots 1-8, Block 1 and Lots 1-6, Block 2 limiting both building sites to one dwelling unit until the property is annexed by the City of Wichita and municipal water and sanitary sewer services become available. The covenant shall also restrict the location of structures on this plat to avoid interference with the possible future streets, easements and setbacks and limit future development until submittal of a paving petition.
- K. A petition was submitted for the installation of Reece Road with the Prairie Crossing Addition. **County Public Works** has requested a new petition to reflect the revised lot configuration.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **DOWNING** seconded the motion, and it carried (13-0).

8-2. SUB2004-139 – One-Step Final Plat – NORTH RIDGE VILLAGE ADDITION, located north of 37th Street North and on the west side of Ridge Road.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. A zone change (ZON 2004-59) has been requested from SF-20, Single-Family Residential to GO, General Office and LC, Limited Commercial. The North Ridge Village CUP (DP-280, CUP 2004-50) is also proposed for the site. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the portion of the property not contained within the zone change will be zoned SF-5, Single-Family Residential.
- B. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- C. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. Fees in lieu of assessment are needed for the sewer main connection.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. City Engineering needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A guarantee shall be provided.**
- F. Traffic Engineering needs to comment on the access controls. The plat denotes one opening along Ridge Road along the south property line in addition to a street opening. **The access controls are approved.**
- G. County Engineering and City Fire Department requests relocation of the cul-de-sac to the west end of Village Parkway or in the alternative a reconfiguration of Lots 5 and 6. **The applicant will be platting a "square-end" turnaround in accordance with the Subdivision regulations.**
- H. An on-site benchmark is needed.
- I. Reserves A and C need north/south dimensions.
- J. The Applicant will provide a guarantee for a northbound left turn lane on Ridge Road, a southbound continuous right turn lane on Ridge Road, and a traffic signal at the intersection contingent upon meeting required warrants.

- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- L. In accordance with the CUP, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots and between the abutting lots to the south.
- M. The Applicant shall guarantee the paving of the proposed street.
- N. The 20-ft utility easement along the north property line should be labeled as a "drainage and utility easement" and extended to Reserve D.
- O. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- P. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- Q. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- R. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- S. GIS needs to comment on the plat's street names. **Village Pky needs to be replaced with "Village Cir".**
- T. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- U. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- CC. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- DD. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **WARNER** seconded the motion, and it carried (12-0).

8-3. **SUB2004-140 – One-Step Final Plat – WATERWALK PHASE 1 ADDITION, located north of Kellogg and west of Broadway.**

NOTE: This is a replat of the Eastbank 1st Addition. This replat includes the vacation of Wichita Street.

STAFF COMMENTS:

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage easement is needed to correspond with the storm sewer denoted on the drainage plan.**
- D. The final plat tracing shall denote complete access control along Kellogg and reference the access control in the plat's text.
- E. A Block shall be designated on the face of the plat as referenced in the plat's text.
- F. **County Surveying** advises that the legal description does not match the plat boundary.
- G. **County Surveying** advises that according to the City of Wichita Resurvey of 1962 the East line of this plat will have a deflection angle at the centerline of Dewey.
- H. **County Surveying** advises that this plat does not meet the Kansas Minimum Standards for a Boundary Survey.
- I. The public access easement needs to be referenced in the plat's text.
- J. The street and utility easement shall be dedicated as street right-of-way for Wichita Street. The plat's text shall note the dedication of the street to and for the use of the public. The property boundaries shall be adjusted accordingly.
- K. An off-site dedication of street right-of-way shall be established by separate instrument for the remaining portion of Wichita Street.
- L. The Applicant is advised of the need for potential KDOT approval for off-site parking to the south as denoted on the site plan.
- M. The plat's text shall include the language "Existing public easements and dedications being vacated by virtue of K.S.A. 12-512(b)."
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.

- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **DOWNING** seconded the motion, and it carried (13-0).

8-4. SUB2004-141 – One-Step Final Plat – KRUMSICK & BARRETT ADDITION, located south of Pawnee and on the west side of Oliver.

NOTE: This is an unplatted site located within the City. The Applicant proposes a zone change from SF-5, Single-Family Residential to LC, Limited Commercial for the northern portion of the site. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change.
- B. The applicant shall guarantee the extension of sanitary sewer to serve Lot 2. Fees in lieu of assessment regarding water connections are also required for Lot 2.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. The plat proposes three street openings to George Washington Blvd and two openings to Oliver. **The access controls are approved.**
- E. The plat denotes a 10-ft contingent street dedication. The Access Management Regulations requires a major intersection right-of-way and 60-ft half-street right-of-way width along urban arterials. **The contingent street dedications proposed along both Oliver and George Washington Blvd are approved.**
- F. Lot 2 should be relabeled as Lot 1, Block 2.
- G. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- H. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.
- S. Dimensions are needed for Lot 1.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **DOWNING** seconded the motion, and it carried (13-0).

8-5. **SUB2004-142 – One-Step Final Plat – TURKEY CREEK SECOND ADDITION, located on the north side of Pawnee and the west side of 119th Street West.**

NOTE: This is a replat of Turkey Creek 2nd Addition which involves multiple boundary shifts. The number of lots has not changed. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. Petitions have been provided with Turkey Creek Addition for sewer, water, drainage and paving improvements. **New petitions are needed for future improvements.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- D. Minimum building pad elevations should be denoted in NGVD.
- E. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the

protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **DOWNING** seconded the motion, and it carried (13-0).

8-6. **DED2004-31 and DED2004-32 – Dedication of Utility Easements, for property located south of Kellogg and Dugan and east of Ridge Road.**

(A) DED 2004-31 and (B) DED 2004-32: Dedication of Utility Easements from Stephen D. Button and Bill Bradshaw, Managers, Dialand, LLC, for property located south side of Kellogg and Dugan, east of Ridge Road.

LEGAL DESCRIPTION:

- A) A 2-foot utility easement for the west two feet of the east 10 feet of the following described tract of land: Lot 1, Thrifty Second Addition to Wichita, Sedgwick County, Kansas, except the east 58 feet of the north 125 feet of Lot 1.
- B) A 2-foot utility easement for the following described tract of land: The east 2 feet of the west 10 feet of the north 125 and the east 2 feet of the west 10 feet of the south 100 feet of Lot 1, Thrifty Second Addition to Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: These dedications are associated with Lot Split Case No. SUB 2004-100 and are being dedicated for construction and maintenance of public utilities.

AGENT/SURVEYOR: Tim Austin, Poe and Associates, 5940 E. Central, Ste. 200, Wichita, KS 67208-4242

RECOMMENDATION: Accept the Dedication.

NEIL STRAHL Planning staff presented the staff report.

MITCHELL I understand that the Lot Split was approved with this as a condition, and that the applicant has complied with that condition. I am opposing the incremental 3-ft dedication.

TIM AUSTIN, POE AND ASSOCIATES Agent I don't have anything to add.

MOTION: To approve to dedication.

DOWNING moved, **BARFIELD** seconded the motion, and it carried (10-3). **DUNLAP, MITCHELL** and **MARNELL** opposed.

❖ **PUBLIC HEARINGS – VACATION ITEMS**

9-1. **VAC2004-00051 - Request to Vacate a Portion of a Platted Utility Easement.**

OWNER/APPLICANT: Philip and Shelley Davis

LEGAL DESCRIPTION: The west 55-feet of the platted 20-foot utility easement located along the north property line of Lot 3, Block A, the Bay Country 2nd Addition, as recorded Wichita, Sedgwick County, Kansas

LOCATION: Generally located southwest of 119th Street West and Central Avenue, more specifically located northwest of Hardtner Circle and Jaax Street, 12610 West Hardtner Circle

REASON FOR REQUEST: Build below ground swimming pool

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned "SF-5" Single-family Residential

The applicant proposes vacation of the west 55-feet of the platted 20-foot utility easement located along the north property line of Lot 3, Block A, the Bay Country 2nd Addition. There is sewer and a manhole in the eastern portion of the platted utility easement. Water is in the ROW. There is 20-feet of a 40-foot Philips Pipeline easement (dedicated by separate instrument and shown on the plat) also in the north side of the lot. The platted utility easement begins where the pipeline easement begins, which puts a total of 40-feet of easement in the applicant's backyard. The Bay Country 2nd Addition was recorded with the Register of Deeds was recorded August 5, 1999.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted easement as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
- 1) That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time October 14, 2004 which was at least 20 days prior to this public hearing.
 - 2) That no private rights will be injured or endangered by the vacation of the above-described portion of a platted utility easement and the public will suffer no loss or inconvenience thereby.
 - 3) In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted utility easement described in the petition should be approved with conditions:
- (1) Retain 20-feet of easement around the manhole.
 - (2) Retain the south 8-feet of the platted 20-foot easement, per the recommendation Westar, which has equipment in the easement.
 - (3) Any relocation or reconstruction of franchised or public utilities, including sewer, made necessary by this vacation shall be the responsibility of the applicant and must be reviewed and approved as needed by the franchised utilities or Public Works prior to relocation or reconstruction.
 - (4) All improvements shall be according to City Standards.
 - (5) All conditions to be completed within 6 months of approval by the MAPC or the vacation application request will be considered null and void

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions;

- (1) Retain 20-feet of easement around the manhole.
- (2) Retain the south 8-feet of the platted 20-foot easement, per the recommendation of Westar, which has equipment in the easement.
- (3) Any relocation or reconstruction of franchised or public utilities, including sewer, made necessary by this vacation shall be the responsibility of the applicant and must be reviewed and approved as needed by the franchised utilities or Public Works prior to relocation or reconstruction.
- (4) All improvements shall be according to City Standards.
- (5) All conditions to be completed within 6 months of approval by the MAPC or the vacation application request will be considered null and void.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BISHOP moved, **GAROFALO** seconded the motion, and it carried (13-0).

OWNER/APPLICANT: Scott and Stephanie Knebel

LEGAL DESCRIPTION: See attached legal; generally described as that portion of the platted 16-foot utility easement as originally recorded on Lots 8 & 2, the Scenic Heights Addition, as recorded Wichita, Sedgwick County, Kansas

LOCATION: Generally located ¼ mile east of West Street and south of 21st Street North, more specifically located on the northeast corner of Westridge Drive and Westridge Court, 2098 Westridge Court

REASON FOR REQUEST: Remove existing encroachment of principal structure and allow additional area for proposed room addition

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned "SF-5" Single-family Residential

The applicants propose vacation of that portion of the platted 16-foot utility easement that was originally recorded along the north side of Lot 8 and the south side of Lot 2, the Scenic Heights Addition. The south 35-feet of Lot 2 was subsequently purchased and joined onto the north portion of Lot 8, which gives the site its current configuration. There are no manholes or water or sewer lines in the easement. The Scenic Heights Addition was recorded with the Register of Deeds was recorded June 2, 1965.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted easement as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
- (1) That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 18, 2004 which was at least 20 days prior to this public hearing.
 - (2) That no private rights will be injured or endangered by the vacation of the above-described portion of a platted utility easement and the public will suffer no loss or inconvenience thereby.
 - (3) In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted utility easement described in the petition should be approved with conditions;
1. Dedicate by separate instrument an additional 2-foot along the length of the platted 8-foot utility easement that runs parallel to a portion of the west property line of Lot 8, the Scenic Heights Addition. There is a manhole and sewer line in this easement on the abutting property.
 2. There is phone equipment in the north portion of the subject site. Dedicate by separate instrument easement to cover this utility, per the recommendation of the phone company.
 3. Any relocation or reconstruction of public or franchised utilities made necessary by this vacation shall be the responsibility of the applicant and must be reviewed and approved as needed by the franchised utilities and/or Public Works prior to relocation or reconstruction.
 4. All improvements shall be according to City Standards.
 5. All conditions to be completed within 6 months of approval by the MAPC or the vacation application request will be considered null and void

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions;

1. Dedicate by separate instrument an additional 2-foot along the length of the platted 8-foot utility easement that runs parallel to a portion of the west property line of Lot 8, the Scenic Heights Addition. There is a manhole and sewer line in this easement on the abutting property.
2. There is phone equipment in the north portion of the subject site. Dedicate by separate instrument easement to cover this utility, per the recommendation of the phone company.
3. Any relocation or reconstruction of public or franchised utilities made necessary by this vacation shall be the responsibility of the applicant and must be reviewed and approved as needed by the franchised utilities and/or Public Works prior to relocation or reconstruction.
4. All improvements shall be according to City Standards.
5. All conditions to be completed within 6 months of approval by the MAPC or the vacation application request will be considered null and void.

MITCHELL I intend to oppose because of Item 1 recommendation of the dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **BISHOP** seconded the motion, and it carried (10-3). **DUNLAP, MITCHELL** and **MARNELL** opposed.

9-3. VAC2004-00054 - Request to Vacate a Platted Utility Easement.

OWNER/APPLICANT: Glenville Baptist Church c/o Bruce Thomas

AGENT: Mark Savoy

LEGAL DESCRIPTION: The platted easement located on the south 8-feet of Lot 1, except the east 20-feet thereof, Glenville Addition, as recorded Wichita, Sedgwick County, Kansas
And The easement dedicated by separate instrument (Film 853, Page 567), located on the north 8-feet of Lots 1 & 2, except the east 20-feet of said Lot 2, Heath Heights Addition, as recorded Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the southeast corner of Seneca Street and 45th Street South, more specifically 4604 South Seneca Street.

REASON FOR REQUEST: Expansion of church

CURRENT ZONING: Subject property and all abutting and adjacent eastern, southern and northern (across 45th Street South) properties are zoned "SF-5" Single-family Residential. Property west of the site and across Seneca Street is zoned "LC" Limited Commercial

The applicant proposes vacating all but the east 20-feet of the 16-foot easement as described and located on the south 8-feet of Lot 1, Glenville Baptist Church Addition and on the north 8-feet of Lots 1 & 2, the Heath Heights Addition. There is a sewer line, manholes and franchised utilities in the platted utility easement. Water is in the Seneca Street and 45th Street ROWs. The Glenville Baptist Addition was recorded with the Register of Deeds November 21, 1966. The Heath Heights Addition was recorded with the Register of Deeds August 4, 1949.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate portions of the platted easement and the easement dedicated by separate instrument as described with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 18, 2004 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portions of platted utility easement and the easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of portions of the platted utility easement and the easement dedicated by separate instrument described in the petition should be approved with conditions;

1. Relocation of the utilities will be, per City Standards and at the applicant's expense. Provide Public Works and the franchised utilities with plans for review and approval, prior to the relocation of public utilities. Obtain all necessary permits and inspections and if necessary provide a guarantee for the relocation of public utilities, including the building of a new manhole to terminate the public sewer line.
2. Provide any additional easements needed per the recommendation of the public and franchised utilities.
3. Retain the easements until utilities have been relocated.
4. Dedicate 10-foot of contingent right-of-way along Seneca Street.
5. Provide Planning Staff with a covenant to retain, hold and bind all the applicant's properties.
6. All conditions to be completed within 6 months of approval by the MAPC or the vacation application request will be considered null and void

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Relocation of the utilities will be, per City Standards and at the applicant's expense. Provide Public Works and the franchised utilities with plans for review and approval, prior to the relocation of public utilities. Obtain all necessary permits and inspections and if necessary provide a guarantee for the relocation of public utilities, including the building of a new manhole to terminate the public sewer line.
2. Provide any additional easements needed per the recommendation of the public and franchised utilities.
3. Retain the easements until utilities have been relocated.
4. Dedicate 10-foot of contingent right-of-way along Seneca Street.
5. Provide Planning Staff with a covenant to retain, hold and bind all the applicant's properties.
6. All conditions to be completed within 6 months of approval by the MAPC or the vacation application request will be considered null and void

MOTION: To approve, subject to staff comments and citing the findings in their report.

BISHOP moved, **GAROFALO** seconded the motion, and it carried (13-0).

9-4. VAC2004-00056 - Request to Vacate a Portion of a Drainage Easement.

APPLICANTS/OWNERS: McCellan Homes, Inc.

AGENT: PEC c/o Rob Hartman

LEGAL DESCRIPTION: See attached legal; generally described as a 2-foot wide (x) 37-foot 4-inch long portion of a 10-foot drainage easement dedicated by separate instrument (Film 1696, Page 336) located along the south side Lot 87, and the north side of what was Lot 86, all in Block 4, Forest Lakes Addition as recorded, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between 29th Street North and 37th Street North, west of Ridge Road and northeast of the Wild Rose Street - Forest Lakes intersection

REASON FOR REQUEST: Encroachment by house

CURRENT ZONING: Subject property and all western (across Wild Rose Street) adjacent and southern and northern abutting properties are zoned "SF-5" Single-family Residential. Eastern abutting property is zoned "LI" Limited Industrial.

The applicant is requesting consideration for the vacation of a portion of a drainage easement, dedicated by separate instrument, that runs parallel to what was the south side of Lot 86 and what was the north side of 87, all in Block 4, Forest Lakes Addition; it appears that the original configuration of these lots has change due to a boundary shift. A house on the site has been built into the easement. The Forest Lakes Addition was recorded with the Register of Deeds April 21, 1993.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the drainage easement dedicated by separate instrument as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 18, 2004, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the drainage easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the drainage easement dedicated by separate instrument described in the petition should be approved with conditions:
1. Vacate only that portion of the drainage easement as approved by the City Storm Water. Provide Staff, if needed, with plans for review and approval by Storm Water.
 2. Provide public and franchised utilities with any required easements made necessary by the proposed vacation.

3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
4. All improvements shall be according to City Standards.
5. All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the drainage easement as approved by the City Storm Water. Provide Staff, if needed, with plans for review and approval by Storm Water.
- (2) Provide public and franchised utilities with any required easements made necessary by the proposed vacation.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.
- (5) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BISHOP moved, **GAROFALO** seconded the motion, and it carried (13-0).

9-5. VAC2004-00058 - Request to Vacate Platted Access Control and a Portion of a Platted Drainage and Utility Easement.

APPLICANTS/OWNERS: ARC of Sedgwick County, Inc., c/o Kevin Fish

AGENT: Baughman Company, PA, c/o Terry Smythe

LEGAL DESCRIPTION: See Attached legal; generally described as drainage use of a portion of the platted 35-foot drainage/utility easement running parallel to the south lot line of Lot A, Block 3 and the platted complete access control running parallel to the 21st Street North right-of-way and the south lot line of Lot A, Block 3, all in the Sycamore Village Addition, as recorded Wichita, Sedgwick County, Kansas

LOCATION: Generally located midway between Rock Road and Woodlawn Boulevard, on the north side of the 21st Street North

REASON FOR REQUEST: Proposing to redevelop property as a church

CURRENT ZONING: Site and properties north, east and west of it are zoned "SF-5" Single-family Residential, with "CUP" Community Unit Plan overlays. Properties south of the site, across 21st Street North, are zoned "GO" General Office and "MF-18" Multi-family Residential with "CUP" overlays

The applicant is requesting consideration to vacate the drainage use of a portion the platted 35-foot drainage/utility easement, as previously described. There is a sewer line and manholes in the platted easement. The applicant's site plan does not show any proposed structural encroachments into the easement. It does show only a portion of a proposed parking lot in a portion of the platted 35-foot drainage/utility easement. A parking lot is allowed in an easement. There is a platted floodway reserve abutting a portion of the site's east side and the platted 35-foot drainage/utility easement. There is a storm water pipe in a portion of the platted 35-foot drainage/utility easement that connects to the previously mentioned platted floodway reserve. The applicant has also applied for the vacation of the complete access control along the site's 21st Street North frontage. There are no other drives onto 21st Street North, from the north side of 21st, between Rock Road and North Bramblewood Street, a distance of approximately ¾ of a mile. There is one drive located across 21st Street North from the site and another just east of this drive. There is a CUP adjustment associated with this site. The Sycamore Village Addition was recorded with the Register of Deeds March 8, 1978.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the drainage use of the platted easement and a portion of the platted access control as described in the attached legal, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 18, 2004 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted drainage/utility easement and a portion of complete access control and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the drainage use in a portion of the platted drainage/utility easement and a portion of the complete access control described in the petition should be approved with conditions:

- (1) Provide the Public Works Engineer with plans that show the location of the storm water drainage line located in the eastern portion of the platted 35-foot drainage/utility easement, to determine how much of the drainage use needs to be retained in the easement.
- (2) Vacate that portion of access control along the site's 21st Street North frontage, as approval by the Traffic Engineer.
- (3) Retain the utility use of the entire platted 35-foot easement drainage and utility easement.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (5) All improvements shall be according to City Standards, including any driveways from private property onto public ROW.
- (6) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions;

- (1) Provide the Public Works Engineer with plans that show the location of the storm water drainage line located in the eastern portion of the platted 35-foot drainage/utility easement, to determine how much of the drainage use needs to be retained in the easement.
- (2) Vacate that portion of access control along the site's 21st Street North frontage, as approval by the Traffic Engineer.
- (3) Retain the utility use of the entire platted 35-foot easement drainage and utility easement.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (5) All improvements shall be according to City Standards, including any driveways from private property onto public ROW.
- (6) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BISHOP moved, **GAROFALO** seconded the motion, and it carried (13-0).

9-6. **VAC2004-00059 - Request to Vacate a Portion of a Utility Easement.**

OWNER/APPLICANT: Lake Ridge Development, LLC c/o Larry Bottenberg

AGENT: Poe & Associates c/o Tim Austin

LEGAL DESCRIPTION: See attached legal; generally described as a 20-foot utility easement, dedicated by separate instrument (Film 1912, Page 2598), that runs parallel to the south lot line of Lot 1, the Lake Ridge Commercial 2nd Addition, as recorded Wichita, Sedgwick County, Kansas

LOCATION: Generally located north of 21st Street North and on the east side of Ridge Road.

REASON FOR REQUEST: Relocation of utilities to assist development on the site

CURRENT ZONING: Subject property and the abutting southern and eastern properties are zoned "LI" Limited Industrial. Property north of the site is zoned "TF" Two-family Residential. Property west of the site, across Ridge Road, is zoned "LC" Limited Commercial. The subject property and all adjacent and abutting properties have Community Unit Plan overlays.

The applicant proposes vacation of the greater portion of the 20-foot utility easement dedicated by separate instrument, located along the south property line of Lot 1, the Lake Ridge Commercial 2nd Addition. There is a sewer line and a manhole in the eastern portion of the platted utility easement. A water line runs inside the easement, runs the length of the easement. Westar has equipment located in the easement. There is a 100-foot Arkla, Inc., pipeline easement (dedicated by separate instrument and shown on the plat) that runs northwest to southeast through approximately half the lot. The Lake Ridge Commercial 2nd Addition was recorded with the Register of Deeds December 5, 1994.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the utility easement dedicated by separate instrument as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 18, 2004 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the utility easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the utility easement dedicated by separate instrument described in the petition should be approved with conditions:
1. Relocation of the utilities will be, per City Standards and at the applicant's expense. Provide Public Works with plans for review and approval, prior to the relocation of public utilities. Provide franchised utilities with plans for review and approval, prior to the relocation of franchised utilities. Obtain all necessary permits and inspections and if necessary provide a guarantee for the relocation of public utilities.
 2. Provide any additional easement needed per the recommendation of the public and franchised utilities.
 3. Retain the easement until utilities have been relocated.
 4. All conditions to be completed within 6 months of approval by the MAPC or the vacation application request will be considered null and void

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Relocation of the utilities will be, per City Standards and at the applicant's expense. Provide Public Works with plans for review and approval, prior to the relocation of public utilities. Provide franchised utilities with plans for review and approval, prior to the relocation of franchised utilities. Obtain all necessary permits and inspections and if necessary provide a guarantee for the relocation of public utilities.
- (2) Provide any additional easement needed per the recommendation of the public and franchised utilities.
- (3) Retain the easement until utilities have been relocated.
- (4) All conditions to be completed within 6 months of approval by the MAPC or the vacation application request will be considered null and void.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BISHOP moved, **GAROFALO** seconded the motion, and it carried (13-0).

9-7. VAC2004-00060 - Request to Vacate Platted Setback, Street Right-of-Way and Utility Easements.

OWNERS/APPLICANTS:

Russell & Janet Clopine, K&N Stephenson Trust, Jim Nunn Construction
Venture Enterprises of Andover, Fahsoltz Construction, Inc.

AGENT:

PEC, PA c/o Rob Hartman

LEGAL DESCRIPTION:

See attached legal; generally described as the platted 20-foot easement that runs parallel to the Freedom Court ROW and located in the front yards of Lots 3 - 7, Block 1, Savanna at Castle Rock Ranch 7th Addition, as recorded Wichita, Sedgwick County, Kansas

The platted 75-foot radius of the Freedom Road Court cul-de-sac ROW, running parallel to the front lot lines of 3, 4 & 5 and a portion of Lots 2 & 6, Block 1, Savanna at Castle Rock Ranch 7th Addition, as recorded Wichita, Sedgwick County, Kansas

The platted 35-foot front yard setback on Lots 1-7, Block 1, Savanna at Castle Rock Ranch 7th Addition, as recorded Wichita, Sedgwick County, Kansas

LOCATION: Generally located midway between 159th Street East and 143rd Street East, north of 13th Street North, more specifically northeast of the Freedom Road – Freedom Court intersection, 1440 North Freedom Court (Sedgwick County – Three mile ring)

REASON FOR REQUEST: Allow more area to build

CURRENT ZONING: Subject property and all abutting and adjoining properties are zoned “SF-20” Single-Family Residential

The applicants are requesting consideration for the vacation of a portion of the platted 20-foot utility easement, the platted 30-foot setback and the 75-foot radius of the Freedom Road Court cul-de-sac as previously described. All the lots (all owned by the applicants) located on Freedom Road Court are involved in some portion of the vacation request. The applicants propose the vacation to allow more area to build single-family residences on the lots. The Savanna at Castle Rock Ranch 7th Addition's streets were platted per the Subdivision's residential suburban standards, but the streets have been developed as if they were city local residential streets. There are storm water, gas, sewer and water lines in the 70-foot street ROW (city local residential streets would have a 58-foot ROW) and the 75-foot radius (city local residential streets would typically have a 50-foot radius ROW) of the cul-de-sac. The location of the utilities in the ROW at this location leaves approximately 30-feet of undeveloped ROW at this site, which is not typical. The UZC provides a 25-foot front setback for the “SF-20” zoning district. The Savanna at Castle Rock Ranch 7th Addition was recorded with the Register of Deeds November 8, 1994.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from County Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate portions of the platted 20-foot easement, the platted 30-foot setback and the 75-foot radius of the cul-de-sac as described in the legal description with the following conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

- 1) That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time November 18, 2004 which was at least 20 days prior to this public hearing.
- 2) That no private rights will be injured or endangered by the vacation of the above-described portion of the platted 20-foot easement, the platted 30-foot setback and the 75-foot radius of the cul-de-sac and the public will suffer no loss or inconvenience thereby.
- 3) In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of the platted 20-foot easement, the platted 30-foot setback and the 75-foot radius of the cul-de-sac described in the petition should be approved with conditions:

- (1) Vacate the platted 30-foot setback on Lots 1 – 7, Block 1, Savanna at Castle Rock 7th Addition and replace with the current UZC's 25-foot front setback for the “SF-20” zoning district. Request to vacate all platted setbacks along on Lots 1-7, Block 1, Savanna at Castle Rock 7th Addition and replace with the UZC's current “SF-20” zoning district's front and street side yard setbacks
- (2) Retain the south 10-feet of the platted 20-foot utility easement located parallel to the current front lot lines of Lot 7 and a portion, as approved by Water and Sewer, on Lot 6, all in Block 1, Savanna at Castle Rock Ranch 7th Addition.
- (3) Retain the platted 20-foot utility easement running parallel to the cul-de-sac and the current property line of Lot 4, Block 1, Savanna at Castle Rock 7th Addition. Dedicate an additional 5-foot of easement to this portion of the platted 20-foot utility easement, and what is approved by Water and Sewer to maintain a minimum of 10-feet north of the existing sewer line and manhole on the north side of the cul-de-sac.
- (4) Retain the platted 20-foot (x) 15-foot easement located between Lots 1 & 2, Block 1, Savanna at Castle Rock 7th Addition.
- (5) Vacate the platted 75-foot radius of the Freedom Road Court cul-de-sac and replace it with a 50-foot radius, per the Subdivision standards for a city local residential street.
- (6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (7) All improvements shall be according to City Standards.
- (8) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions;

- (1) Vacate the platted 30-foot setback on Lots 1 – 7, Block 1, Savanna at Castle Rock Ranch 7th Addition and replace with the current UZC's 25-foot front setback for the "SF-20" zoning district.
- (2) Retain the south 10-feet of the platted 20-foot utility easement located parallel to the current front lot lines of Lot 7 and a portion as approved by Water and Sewer on Lot 6, all in Block 1, Savanna at Castle Rock Ranch 7th Addition.
- (3) Retain the platted 20-foot utility easement running parallel to the cul-de-sac and the current property line of Lot 4, Block 1, Savanna at Castle Rock Ranch 7th Addition. Dedicate an additional 5-foot of easement to this portion of the platted 20-foot utility easement, and what is approved by Water and Sewer to maintain a minimum of 10-feet north of the existing sewer line and manhole on the north side of the cul-de-sac.
- (4) Retain the platted 20-foot (x) 15-foot easement located between Lots 1 & 2, Block 1, Savanna at Castle Rock Ranch 7th Addition.
- (5) Vacate the platted 75-foot radius of the Freedom Road Court cul-de-sac and replace it with a 50-foot radius, per the Subdivision standards for a city local residential street.
- (6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (7) All improvements shall be according to City Standards.
- (8) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

BILL LONGNECKER Planning Staff wishes to clarify condition number one. The staff report that you have refers to replacing the platted 30-foot setback with the Unified Zoning Code's 25-foot setback for the front of those properties. We do need to revise that to: Vacate all platted setbacks on Lots 1-7, Block 1, Savanna at Castle Rock Ranch 7th Addition and replace with the UCZ's current "SF-20" zoning district's front and side yard setbacks.

BARFIELD Why was the legal notice published in the Derby Reporter as opposed to the Wichita Eagle?

LONGNECKER This is a County case but it is located within the City of Wichita's three-mile ring subdivision jurisdiction. All County cases are advertised in the Derby Reporter.

ROB HARTMAN Agent for the applicant. We are in agreement with the changes that Bill made with the staff comments.

MOTION: To approve, subject to staff comments including the change to condition number one as stated by Staff, and citing the findings in their report

JOHNSON moved, **WARNER** seconded the motion, and it carried (13-0).

❖ **PUBLIC HEARING-SUBDIVISION ITEM**

10. **Case No.: DR2004-13** Request Amendment to Section 7-204 (C) of The Wichita-Sedgwick County Subdivision Regulations regarding revisions to lot bundling regulations

The "Lot Bundling" provisions (Sec. 7-204(C) applies in areas identified on the Comprehensive Plan as "2010 Urban Service Area" and "2030 Urban Service Area". Proposed subdivisions in these areas must be designed so they may be readily converted to urban-type building sites without replatting. The developer must plat smaller lots and tie them together by a Restrictive Covenant that creates a "bundle of lots" in an area sufficient for an on-site sewage system. The Restrictive Covenant limits each bundle of lots to one dwelling unit until municipal water and sewer service is available.

Problems have arisen regarding development within these smaller lots, as these plats typically contain contingent street rights-of-way limiting placement of structures. Also, difficulties have occurred in preparing a drainage plan that is compatible with one designed for the ultimate development.

To alleviate this situation, the following revision is proposed to allow the Lot Bundling provisions to be optional as opposed to mandatory:

7-204. Lots.

(C) In those areas where, in the future, there may be municipal-type water and sanitary sewer facilities available, the lots ~~shall~~ may be so designed and arranged that they may readily be converted to urban-type building sites without replatting.

NEIL STRAHL Planning staff. We will need a Resolution and Ordinance approved today prior to forwarding those to the Governing Bodies.

MCKAY If we are going to change the one word (shall) to may, why not eliminate the whole thing?

SCHLEGEL We have had somebody request to do "Lot Bundling". They actually wanted to do that. So our thought was rather than eliminating the whole provision, which is what we originally thought, this would be the way to go. We thought why not make it an option so if somebody in the future would desire to do this, they could.

BISHOP Neil, have there been very many people follow this so far or has it been mostly been a routine requirement?

STRAHL We have had two or three that have utilized the provision, and probably two or three where we waived the provision.

MOTION: To approve, the Resolution and Ordinance, and forward to the Governing Bodies.

JOHNSON moved, **WARNER** seconded the motion, and it carried (12-1). **BISHOP** opposed.

❖ **PUBLIC HEARING**

SCHLEGEL I would like to give you one final wrap up presentation.

11. **Case No.: DR2003-21** Request Adoption of the 21st Street North Corridor Revitalization Plan. Generally located two blocks to the south and north of 21st Street North between Amidon Street and Hillside Street, as well as portions of the North Central Industrial area extending from 17th Street North to 33rd Street North, between North Broadway Street and I-135.

Background: In February 2004, City Council approved the hiring of a consultant to undertake the development of the 21st Street North Corridor Revitalization Plan. The purpose of this plan is to develop a future land use revitalization concept and strategic action implementation plan for targeted segments of the 21st Street corridor located between Hillside and Amidon, including the north central industrial corridor. The Plan is also to provide solutions to long-standing rail and vehicular transportation issues associated with this area. The planning area generally encompasses a one-block area to the north and south of 21st Street North, as well as portions of the north central industrial corridor from 17th Street North to 33rd Street North, between I-135 and Broadway.

A 13-member steering committee representing area and city stakeholders was appointed by City Council to oversee the development of this plan. Since the planning area was so large and contained three distinct sub-areas, three advisory committees (15 members each) representing these sub-areas were also appointed by Council to provide focused feedback on the development of the plan. A total of four public meetings were held between April and September 2004 to present information, obtain feedback and reach consensus on the plan. A series of three advisory committee meetings and over 12 steering committee meetings were held to help develop a plan that truly reflects the consensus of the community. A city technical advisory committee was also formed to provide technical review and advice throughout the planning process. In addition, the Advance Plans Committee of the Metropolitan Area Planning Commission provided ongoing input into the development of this Plan.

Presentations of the proposed draft plan were made to District Advisory Board I on November 1st and also to District Advisory Board VI on November 17th and December 6th. The Plan has received full endorsement from both of these Boards.

Analysis: The following is a summary of the major highlights of the 21st Street North Corridor Revitalization Plan:

- ❑ The Plan has been developed based upon the following six guiding principles:
 1. The revitalization of 21st Street is important to all of Wichita.
 2. The community leads the revitalization. The City supports the community in this effort.
 3. Revitalization builds on the ethnic and cultural diversity of the area. It fosters local entrepreneurship.
 4. Solving traffic and parking problems is essential.
 5. Making the area attractive and creating a unique identity are important.
 6. Cleaning up the environment is crucial.
- ❑ The Plan contains a vision statement and four goals that reflect the six guiding principles. The Plan also contains an implementation action plan / matrix with specific economic, transportation, environmental and land use actions to be accomplished in a timeframe consisting of the following five phases:
 - Phase I, Immediate through 2005 Actions
 - Phase II, 2006-2010 Actions
 - Phase III, 2011-2015 Actions
 - Phase IV, 2016-2025 Actions
 - Phase V, 2025 and Beyond
- ❑ **Key Phase I Actions:** Create the necessary elements of an International Marketplace south of 21st Street and west of Broadway, including intersection improvements and gateway enhancements at 21st Street and Broadway. Create the organizational capacity to drive revitalization efforts.
- ❑ **Key Phase II Actions:** Design and construct a 21st Street Overpass located east of Topeka and west of Cleveland. Complete road system improvements in the central sub-area including improvements to 25th Street east of Broadway, re-striping Ohio and installing at-grade rail crossing improvements. Promote the redevelopment of the El Paso-Derby refinery site, and establish the East End Multicultural District along with associated streetscape improvements east of I-135.
- ❑ **Key Phase III Actions:** Design and construct 21st Street improvements west of Broadway. Design and construct regional gateway features at the interchanges of I-135 / 21st Street and I-135 / 29th Street.

- ☐ *Key Phase IV Actions:* Secure funding sources, acquire necessary ROW and commence relocation of the BNSF mainlines and yards.
- ☐ *Key Phase V Actions:* Complete the relocation of the BNSF mainlines and yards.

Recommendation / Action: That the MAPC pass a resolution adopting the 21st Street North Corridor Revitalization Plan dated December 2004, as an amendment to the Wichita-Sedgwick County Comprehensive Plan.

DAVE BARBER Planning staff The packet that you received earlier today, dated December 2004, reflects editing and formatting changes that have been made by staff to the December 17th version which you received last month. Staff reviewed the November 17th version that was prepared by the Consultant and determined that editing needed to be done to the document before it was to be finally adopted. The editing and formatting changes that we have made are basically administrative in nature. Correcting factual information, eliminating redundancy, correcting typo-grammar errors, providing clarifications on terms and concepts, simplifying the language, creating consistency in terminology and hopefully improving the overall readability of the document.

We have made a couple of substantial changes to the November 17th draft that I wish to review with you at this time. These changes pertain to the Plan Goal and Action Policies related to the Environmental strategies in the 21st Street Corridor. These changes reflect the input that we received from the City's Department of Environmental Health Department. The first change would be on Goal Three which originally said *eliminate* environmental contamination and we are proposing to change that to *remediate* environmental contamination because of the fact that it is simply not practical or possible to eliminate environmental contamination and the goal of this plan is to remediate the site such that it will be suitable for future redevelopment and revitalization.

So related to that goal change we have made changes to the text on that particular section to reemphasize the commitment of the City of Wichita to continue with the environmental remediation strategy that was developed in the 1990's in conjunction with KDHE in what is called the (NIC Site) or the North Industrial Corridor, with particular emphasis on the certificate and release program.

DUNLAP This is not a pass-in-concrete absolute plan? We still have adjustments and other things that can be made before we start changing streets and spending dollars?

BARBER This plan is a guide to development. This is a 20-25 year plan with guiding principals. It is not cast in stone.

HERNANDEZ John you come from Las Vegas, which is one of the fastest growing cities in the country. How would you rate this plan on a scale of 1-10?

SCHLEGEL I think it is a pretty good plan. We had good community involvement. There was a lot of leadership in that area in terms of wanting to get involved and getting this revitalization effort underway. I think that it achieved what City Council wanted to get done. I think the process achieved what City Council was hoping to achieve, which was to get some fire back into the community and get them motivated and interested in getting things moving.

HERNANDEZ What was the final cost of this plan?

SCHLEGEL The contract with the consultant was for \$350,000. We have not paid all the bills yet on that and there will have to be reconciliation with them because we were not satisfied in the terms of the product that they delivered to us.

GAROFALO I am referring to the draft of November 17th on page II-47, were you talk about zoning and design guidelines? Would there be a requirement or need to do a bunch of rezoning?

SCHLEGEL No, this will not be like Mid-Town. It does not call for very extensive rezoning but there may be places where new zoning will be needed. We are already talking about doing an Overlay District for the International Market Place in a way that would help foster small business enterprises in that area.

GAROFALO On page II-25, referring to the couplet, it would appear to me that if a couplet is needed it would require a greater number of properties to acquired, but it indicates here that wouldn't be the case.

SCHLEGEL The analysis that was done of those two, the five lane configuration would require the taking out of many of the buildings on the north side of 21st Street and would probably require the purchase of the majority of those properties in order to take those buildings down. The one-way couplet would not necessarily require the taking down of all of those buildings that front on the north side of 21st Street.

GAROFALO It appears to me that you would have to acquire more residential properties.

SCHLEGEL Yes, in the one-way couplet scenario there are some residential properties that would have to be taken.

GAROFALO So you would take more residential that way.

HENTZEN John, I want to know about the cost of the phases outlined in the Plan. What is that an estimate of?

SCHLEGEL These costs are very high because they includes the estimated cost of relocating the BNSF mainline tracks from their current alignment to an alignment further to the east and that is a very, very, expensive proposition. That would be in excess of \$120 million.

DUNLAP The BNSF tracks are the ones immediately east of Broadway.

SCHLEGEL Correct.

HENTZEN John, at some meeting when we don't have such a heavy agenda, I wonder if we could ask the environmental people to brief of us on how many contaminated areas we have. So that we are all familiar with the conditions and what we are doing about it, and how far have we come, and how much needs to be done.

SCHLEGEL I am sure that Kay Johnson would be glad to do that.

BARFIELD John, when you talk about the cost of relocating the BNSF Railroads I have two questions, has BNSF agreed to that? If so, have they agreed to fund that project.

SCHLEGEL The answer to both those questions is No.

GAROFALO Since this is such a large project area and not a neighborhood area, is much of the work on the roads to be included in the Capital Improvement Program?

SCHLEGEL Yes, any improvements to City streets would be in the CIP.

MCKAY I know there is a lot to do for 21st Street east of Broadway. Are the improvements west of Broadway going to be contingent on the east-of-Broadway improvements, or are we going to try to work on both concurrently?

SCHLEGEL When you say east, you mean the area between Broadway and I-135?

MCKAY Yes. From the interstate highway to Broadway, Is the railroad going to hold up anything happening from Broadway west?

SCHLEGEL No, the overpass that is proposed to go in that portion of 21st Street between Broadway and I-135 would touch down far enough east of the Broadway-21st Street intersection that it would not affect improvements made west of Broadway.

BARFIELD Basically what he is saying is which Phase of this would be done first, would it be Broadway to I-135 or Broadway to Amidon?

SCHLEGEL What we have in the implementation matrix is to get started on the design of the overpass as quickly as we can round up the money to do that and hopefully we can get that started in 2005. But because that is a relatively expensive project I can't predict today how soon the City would be able to put the funding together for that but as soon as the funding can be put together, then the recommendation for the Plan is to get that project started.

BARFIELD So nothing would be done west of Broadway until that portion is completed?

SCHLEGEL No, not necessarily. What will happen west of Broadway is being deferred until we see what happens with the success or the non-success of the International Marketplace. What the Plan is saying is that there is a preference for the one-way couplet that came out of the Steering Committee. However, no decision should be made about the widening of the 21st Street west of Broadway until we have had some time to assess whether or not the International Marketplace will succeed. At that point, it will be brought back to the stakeholders, property owners, and business owners, along 21st Street who will be asked again what is the preference for improvements west of Broadway. The two projects should be able to be done independently of each other, or concurrently, if the funding and the decision can be made to happen.

SHERMAN What is considered the hub?

SCHLEGEL The core of the revitalization of 21st Street west of Broadway will be the International Marketplace. What the Plan recommends is get started in the vicinity of 21st and Broadway and the improvements to that area. If those improvements catch on, the current business owners, and property owners will have an opportunity to assess once again whether or not they want to five-lane 21st Street, or do the one-way couplet that is proposed.

MCKAY So you are saying to me that until private industry or private enterprise comes in and makes it happen, nothing is going to happen west of Broadway on 21st Street?

SCHLEGEL No. I am saying that until the stakeholders in that area make a decision.

MCKAY That is private enterprise.

SCHLEGEL They maybe doing that through either Business Association or Community Development Corporation.

MCKAY We are not going to put public dollars on 21st Street to revamp it, until that becomes a success, is that what you are saying?

SCHLEGEL Until we know whether or not it grows wings and flies, the Steering Committee is advising that we defer that decision. The reason for doing that is because those widening configurations represented two very different visions for how commercial revitalization should occur west of Broadway. A one-way couplet was a scenario that envisioned a commercial revitalization that was pedestrian oriented and trying to create a destination where people all over Wichita would go to an International Marketplace. They would go, park their cars and walk around and shop. The five lane configuration had a different vision for commercial revitalization which would be more like what has occurred east of I-135, which was a standard five lane widening of 21st Street with shopping centers which are built for easy access and plenty of parking in front of the stores. We never got consensus on which was the preferred plan, and it was decided to see how the International Marketplace works, and then maybe we will be better able to make an assessment of which lane configuration would work better.

BARFIELD There were several public hearings held on this plan. Is what you just explained, explained at the public hearings so that these people know exactly what the procedure would be?

SCHLEGEL We went over this many, many, times at the Steering Committee meetings.

BARFIELD What about the public hearing meetings?

SCHLEGEL We had long, extensive, debates about that.

DUNLAP We will be hearing from the audience here in a minute, and I know several Planning Commissioners have been approached by a variety of people.

SCHLEGEL Yes, we have distributed several letters today from the public for comment.

DUNLAP Treatha Brown-Foster letter proposes a business incubator, and she is primarily interested in that area east of I-135. I whole-heartily endorse the ideal of a business incubator.

BARBER Her suggestion is already addressed in the Plan. It is Policy 1.10 Action Item 2, and Policy 1.11 Action Item 1, on page III-14 of the December draft.

DUNLAP We will open this for public hearing.

DON CHECOTS, PRESIDENT AND GENERAL MANAGER OF KPTS PUBLIC TV STATION AT 320 W. 21ST STREET I have been in the community about eight years now. I want to applaud the Planning Committee and all of the consultants. I had a chance and an opportunity to attend some of the meetings and I tell you they have been energizing. I want to address the part in John's memo where he talks about creating the organizational capacity to drive these revitalization efforts. I really think over the last month or two we have been working pretty hard with the group of us, the 21ST Street Business Association that is represented here, the 21ST Street Neighborhood Association, and the Hispanic Chamber of Commerce. We have been up and down and all the way around the block on these issues and I believe that over the last month we have resolved some of these issues and we are now ready to come together and work on creating that capacity organizationally to drive this thing.

I believe that we understand that this is a guideline and a plan, and that we are not going to be breaking ground tomorrow and putting in five lanes or whatever, and we will have a lot of work to do. Also, this thing can change over a period of time with the input from all of these citizens. Our effort is to get folks organized and approach this thing in a logical way, and not be fighting each other over who is on first and all of that.

DUNLAP Can we assume from your comments that Channel 8 will stay on 21ST Street?

CHECOTS Channel 8 is working on that. We have some great ideas and need to get the partners together to take a look at some things, but I think there are some options for us to play a key role in the revitalization of the neighborhood.

BICKLEY FOSTER, 2818 N. EDWARDS Two-thirds of the area of this Plan is in District VI and I am a member of the District VI Advisory Board and on Monday night, with 10 of 11 members present, they voted unanimously to approve the Plan and recommend it to you for your adoption.

Council member Fearey appointed three DAB people when this started, myself, Mr. Daemen and Ms. Escobar and we attended meetings of the Steering Committee and each of us were on either the Central Committee, the West Committee or the East Committee, and there were as many as four meetings of the Steering Committee, and there were 13 meetings I believe. My point is that I attended every one of the meetings except three from February through October. I can tell you that I observed that anybody who wanted to make an input to this Plan had the opportunity to do it. I am not saying that everybody agrees on every part.

A plan is a plan unless it is implemented. I have worked on some of the previous plans in this area and the point is, that this has an implementation section that sets up a 15-member committee to do this. I think the city staff members need to be there on this committee, but I think it is best to have the staff members be ex officio members.

CHARLIE RIVERA President of Hispanic Chamber of Commerce I have one comment, one of the significant outcomes of this project has been for this community to come together.

ROSALIE BRADLEY, 1401 JULIANN As a member of the 21ST Street Business Group and an Officer of the Association, I have been asked to speak to you today. The 21ST Street Business Association supports the City's efforts to revitalize the 21ST Street Corridor and realize that this is a plan and that it can be tweaked as we move forward with implementation. The businesses and property owners in the area are thrilled with making 21ST Street area a vital part of Wichita again. In addition, the plan gives the Hispanic population the opportunity to promote their culture and historical contributions to the community.

JESSE VIURQUEZ I am Chairman of the Hispanic Business Leadership Committee at the Wichita Chamber of Commerce and I have had a business since December 1995 at 201 E. 21ST Street. I have to echo Mr. Foster comments that anyone and everyone that wanted to be a part of the process was able to, and with the Planning staff, they were always available and accessible. There have been other plans and we have gone through some challenges. I am favor of the one-way couplet. We looked into the railroad not moving and we can still do some things even though they don't move. I encourage and support the plan and ask you all to do the same. Money is there and you just have to go out and find them. One of the points I would like to make is that people are selling stuff out of the trunk of their car or their house and why not get them into a building or a business.

SCHLEGEL Our recommendation is that you adopt this and pass it on to the WCC and BOCC for them to adopt as an amendment to the Wichita-Sedgwick County Comprehensive Plan.

HERNANDEZ I want to address a couple of things, but if you look along 21st from Hillside to Amidon and the designated area and the plan, it is heavily minority community, not only in terms of businesses but in terms of residences and businesses that cater to the people in the area. It is predominately minority, Asian American, Hispanic or African American.

I want to read something here so we don't have to go back and look at this meeting 10 years hence. Speaking about minorities, the 2000 Census Bureau report that Sedgwick County had about 450,000 people of whom 25% is minority and Wichita had about 360,000 of which 30% is minority. Last year USD 259 for the first time is over 50% minority, so keep those figures in mind. This article was put out by Wichita Eagle last year. The city's disparity study that cost \$212,000 in 1994, gave the city low marks for its relationship with minority contractors. A recent City report revealed that more than 9% of Wichita contract payments in the past three years went to minority business. Though that amounts to \$44 million, critics pointed out that \$35 million of that total went to a single Hispanic company, Cornjo and Sons, 80%. For the people that are doing these CDC's that are implementing all these plans, make sure that you try to be more sensitive in the distribution of work to minority contractors. If we can't help them here, where can we help them?

GAROFALO John explained a little bit ago, if I understood him correctly, that the public improvements in the 21st and Broadway area wouldn't start until this International Marketplace goes in and demonstrates whether it is going to work or not. I am trying to understand why the public improvements would have to wait if an International Marketplace worked.

SCHLEGEL My comments that I made earlier were in response to Commissioner McKay's question, and I was trying to address the question of the five lanes of 21st Street, West of Broadway, versus the one-way couplet. I wasn't trying to say that we wouldn't make other improvements because there are some improvements that need to be made right away. For example the intersection at 21st and Broadway needs to be upgraded, it needs left turn lanes, and better turning radius and so forth. There are other improvements that we should be making in the International Marketplace Area, like the creation of a Mercado and some public spaces and gateway features at 21st and Broadway to identify that area as a place special. What we couldn't get was a consensus on whether we should do a standard five lane of 21st Street, west of Broadway or do that one-way couplet. So, the decision was made to simply defer that and see what happens with these other improvements, and also with the private sector initiative in that area and see whether anybody's mind changes as a result of that.

BISHOP I would like to add that we have all watched a long, slow, and often bumpy process of developing a consensus on the 21st Street Corridor. I think it was a good idea to go forward with the measure of consensus that had been reached on this issue.

BARFIELD When I look at Mr. Kamen's letter, he has some points in here that I would like to question him on. One point that he makes is that the railroad is forced out of Wichita and I don't understand where that came from. The way I see it is that people in this area have to be considerate about the fact that at this point, this is a plan, and before this plan there have been many other plans. Yet, there has never been anything materialize beyond the planning stage. People are apprehensive as to whether or not this plan will go forward, and I hope that it will.

DUNLAP I believe the implementation schedule in here is something that we haven't seen before. I am concerned about the area between I-135 and Broadway. There are about 20 businesses along there and we are going to build an overpass, and I don't think that is a good plan. Some of those people will survive without direct street access and some will not. Some of them will relocate.

BARFIELD I agree with you about this ideal of an overpass. The overpass is at the wrong place. The majority of the train traffic takes place at 21st and Broadway just a few feet east of it. The overpass will not encompass that set of track. If we are talking about improving traffic on 21st Street, I don't know how you could effectively do it and not include the overpass over the BNSF track.

DUNLAP Or move the track.

MOTION: That the MAPC pass a resolution adopting the 21st Street North Corridor Revitalization Plan dated December 2004, as an amendment to the Wichita-Sedgwick County Comprehensive Plan and forward to WCC and BOCC.

JOHNSON moved, **DOWNING** seconded the motion, and it carried (13-0).

❖ **PUBLIC HEARINGS – ZONING ITEMS**

- 12a. **Case No.: CUP2004-36 DP-278 Associated with (ZON2004-40)** – New Market V LLC, c/o George Sherman (Vice President); PEC, PA, c/o Rob Hartman (agent) Request Creation of NewMarket V Community Unit Plan on property described as;

(C.U.P. LEGAL ONLY)

PART OF THE NORTH HALF OF THE NORTHEAST QUARTER, SECTION 6, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS; DESCRIBED AS:
COMMENCING AT THE NORTHEAST CORNER OF SECTION 6, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS; THENCE BEARING N89 degrees 46'15"W, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 40.00 FEET; THENCE BEARING S01 degrees 24'27"W, PARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 75.00 FEET TO THE POINT OF BEGINNING; THENCE BEARING N89 degrees 46'15"W, PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 175.00 FEET; THENCE BEARING N81 degrees 14'24"W, A DISTANCE OF 101.12 FEET; THENCE BEARING N89 degrees 45'15"W, PARALLEL TO THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 14.68 FEET; THENCE BEARING S01 degrees 24'27"W, PARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 599.99 FEET; THENCE N89 degrees 46'15"W, A DISTANCE OF 358.94 FEET; THENCE BEARING S01 degrees 24'27"W, PARALLEL WITH THE EAST LINE OF SAID NORTHEAST

QUARTER, A DISTANCE OF 656.12 FEET TO THE NORTH LINE OF LOT 21, BLOCK 9, EVERGREEN ADDITION; THENCE BEARING S89 degrees 47'16"E, ALONG THE SAID NORTH LINE OF LOT 21, BLOCK 9, EVERGREEN ADDITION, A DISTANCE OF 613.92 FEET TO A POINT 75.02 FEET WEST OF THE EAST LINE OF THE SAID NORTHEAST QUARTER; THENCE BEARING N03 degrees 19'23"E, A DISTANCE OF 1047.19 FEET; THENCE N01 degrees 24'27"E, A DISTANCE OF 195.04 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 577,896 SQUARE FEET OR 13.27 ACRES MORE OR LESS. Generally located South of 29th Street North and west of Maize Road.

and

- 12b. **Case No.: ZON2004-40 Associated with (CUP2004-36 DP-278)** – New Market V LLC, c/o George Sherman (Vice President); PEC, PA, c/o Rob Hartman (agent) Request Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

SF-5 TO L.C. ZONING legal only

PART OF THE NORTH HALF OF THE NORTHEAST QUARTER, SECTION 6, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS; DESCRIBED AS:
BEGINNING AT THE NORTHEAST CORNER OF SECTION 6, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS; THENCE BEARING N89 degrees 46'15"W, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 330.00 FEET; THENCE BEARING S01 degrees 24'27"W, PARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 660.00 FEET; THENCE BEARING N89 degrees 46'15"W, PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 358.94 FEET; THENCE BEARING S01 degrees 24'27"W, A DISTANCE OF 656.12 FEET; THENCE BEARING S89 degrees 47'16"E, A DISTANCE OF 688.94 FEET TO THE SOUTHEAST CORNER OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 27 SOUTH, RANGE 1 WEST; THENCE BEARING N01 degrees 24'27"E, A DISTANCE OF 1315.92 FEET, TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 15.4 ACRES MORE OR LESS. Generally located South of 29th Street North and west of Maize Road.

**MAPC approved September 23, 2004 vote (6-5)
November 2, 2004, Wichita City Council returned to MAPC**

DUNLAP I would like for all Commissioners to acknowledge that we have been contacted outside this meeting by parties on both sides. Are then any Commissioners that have not been contacted?

SCHLEGEL Has that contact influenced anybody's decision so that you have made up your mind about this case prior to today?

COMMISSIONERS No.

MCNEELY What you should have at your stations today from the Spencer Cove representative would be a letter from Poe and Associates, Baughman Company, a letter from some surrounding property owners along with a graphic demonstrating which property those property owners own. I believe you have received a packet from the applicant, as well as a letter from Genesis.

1. The original staff report for this case, and a revised CUP document submitted by the applicant are attached to your memorandum for this case.

2. **BACKGROUND:** This request was considered by the MAPC on September 23, 2004. MAPC approved the request by a vote of 6-5, subject to staff recommendations, with the additional recommendation that the applicant and the commercial property to the west (Spencer's Cove, DP 269) "shall work in good faith to establish cross-lot access easements and to determine associated cost responsibilities." The applicant and the Spencer's Cove representatives have not worked out a cross-lot access agreement.

The applicant and staff agreed on all other staff recommendation Conditions, except for conditions 1.a. and 1.b. regarding cross lot circulation with bordering commercial developments. Staff recommends that the application be approved subject to required cross lot circulation with bordering commercial properties, based on the policies of the Wichita Access Management Policy. The applicant remains opposed to cross lot circulation with bordering commercial properties.

The Spencer's Cove CUP has a cross-lot access requirement; the Spencer's Cove representative still desires that cross-lot access be required of this application. The Spencer's Cove representative filed a protest petition for this application, amounting to 22% of the application's protest area, requiring the governing body to have a supermajority to override the protest.

The Wichita City Council heard this request on November 2, 2004, and voted 6-0 to return the request to MAPC, to see if the two parties can come to a conclusion on the cross-lot access issue. The City Council discussed the cross-lot access issue, and discussed the issue that the application area is a jurisdictional wetland, and will require a development permit from the US Army Corps of Engineers.

3. RECOMMENDATION:

Staff continues to recommend that the application be approved subject to required cross-lot access with bordering commercial properties.

BISHOP Is this the proper time to discuss the drainage issues or will that come up as part of the applicant's presentation?

MCNEELY If you would like to ask staff about drainage issues, I will answer what I can. I can't guarantee that it is much information, but you could also ask the applicant and opposition the same question.

BISHOP I understand that part of the discussion in front of the City Council included that the fact that the Corps of Engineers seem to be indicated that there was a drainage issue that they were interested in that needed their approval.

MCNEELY The first time MAPC heard this in the staff report we mentioned that the Corps of Engineers has determined this a jurisdictional wetland and the Spencer Cove property is a jurisdictional wetland which will of course require a Corps permit, and Corps approval for development on the property. We all acknowledge that fact but being that this is in the conceptual phase of zoning and CUP, we know there will have to be engineered draining solutions.

JERRY JONES, I am an employee of Don Slawson. NewMarket Square benefits the community. Its economic impact – all with no public assistance includes an investment on site, building and public improvements, totaling \$45 million. Approximately 1,500 jobs have been created. Approximately \$1.5 million in commercial property taxes; residential (Evergreen) property taxes generate a total of \$1.9 million annually. There will be future phases of development that the total projected economic impact will be an investment of \$78 million; jobs – 3,100. Annual Property Tax (uninflated): \$3.24 million, Annual Sales Tax (uninflated) \$22 million.

We implemented Access Management principles that include limited access drives, off-street circulation system, required cross-lot access easements, installed shared drives, deceleration lanes, left turn lanes.

Major investment was undertaken to create a special environment that has become a community focal point: Built a plaza for community events, extra wide sidewalks with street trees, benches and decorative lighting, common areas landscaped, ales and open spaces. We designed and constructed buildings that have a unique and consistent theme, maximized storefronts and hid service areas, incorporated interesting detailing. We also have self-imposed restrictions that greatly limit the types of businesses and uses that can occur on the property far beyond the standard for this market.

What does it take to accomplish something like this? Certainly a commitment to quality, and a long-term investment outlook. I think more importantly is the control that we are able to exercise through our leasing, daily management, and legal documents. We have a full-time property manager, two field maintenance workers, plus contracted security, trash collection and landscaped maintenance who are out here everyday to make sure the property is clean, safe and running smoothly.

Attached to every lease that we sign are 18 pages of use restrictions, rules and regulations. There is a 31-page design criteria manual that anybody who buys property from us must follow. We have a 39-page restrictive covenant agreement over the existing development. There is a 58-page restrictive covenant agreement, which covers the development and the operation of the subject property. All these restrictions on development and operations are in addition to what exist now with the existing Protective Overlay. This is relevant here today. Let's say, for example, Wal Mart, who is one of our tenants who occupies property which we don't own but who we have a restrictive covenant agreement with. Say one of their truck drivers, maybe it is his first day on the job, and he doesn't know exactly how is suppose to get to the loading dock, and he comes up to our entrance further up Maize Road, and he cuts back through the property, and he cuts a corner and he does some damage to the landscaping. Our recourse as a property owner who has an agreement with Wal Mart is to contact them and bill them for the damage. But if they refused to pay for it our restrictive covenants give us the right to go in and fix that, and send Wal Mart the bill. If they didn't pay we could file a lien on their property until it is paid.

We want to take the next step with New Market V. It has a more pedestrian environment. We have been speaking with the some of the tenants for over the past five years. The tenants are coming to us now because of our ability for us to offer distinctive sites along this important Maize Road frontage. In dealing with the caliber of retailers that we are talking about, the two issues that are of utmost importance, first is the quality of the shopping environment. Also the control we have over our property.

GEORGE SHERMAN As Commissioner Bishop mentioned, at the City Council and at your meeting there was quite a bit of discussion about drainage issues out here, and some other issues that we consider side issues. Drainage is certainly important out here and we are both going to have to deal with it.

The primary issue with us concerns the requirement for cross-lot access and not how to accomplish it. First there is no regulation, no ordinance and no policy that requires cross-lot access between adjacent properties. The Access Management Policy does include language about it, which specifically says that, "cross-lot access will be encouraged between adjacent properties to minimize driveway accesses on arterial streets."

There is a statement in the policy that we think is very significant that says "It should be noted that many factors can not be overlooked in exercising the application of these guidelines, including the developers intent, the size of the parcels, the compatibility of adjacent land uses, parking facilities, building locations, and other complicating design elements."

The policy also provides for deviations where the character of the site or the area's present unusual conditions. The policy also refers to encouraging more travel along major streets and fewer diversionary trips on minor and local streets. We don't think that it is good planning to encourage traffic through this site. We think a lot of our access and driveways are very much like minor and local streets.

We connected everything in New Market, and for example someone who is on a property there on 29th Street that wants to get to Wal Mart, we want them to use the streets and not cut through this project. That is what the streets are for. There are standards for driveway spacing, entry drive standards, accel/decel lanes, parking minimums, maximum floor coverages, and location of traffic signals. We have minimized driveway accesses. We have provided only three openings when we could have fit six on this property. We are providing only 11 in that entire mile where the standard would have let us put 20. We have dedicated whatever land the City has asked us for. We have agreed to pay for the traffic signals.

There are benefits to cross-lot access, and there are also factors that are detrimental when you have cross-lot access. One thing none of us wants to see is people use cross-lot access to avoid a traffic signal, connecting these up will allow people to do that.

Another thing is that you don't want people using these driveways as streets. There are shoppers going back and forth in there, there are people looking for spots to park, a long stretch in those internal spots.

Our position regarding cross-lot access is based on our long-range plans for developing our property in a manner for which we believe is best suited. We have exceeded the access management standards. We have included numerous other provisions that have positively impacted traffic flow. We strongly believe that the addition of a requirement for cross-lot access would be detrimental for our development, impractical and incompatible with our development.

BARFIELD You mentioned a lot of benefits but you don't see any benefit to the public from a traffic safety standpoint by the inclusion of cross-lot access, is that what you said?

GEORGE SHERMAN I don't see any additional benefit, given all of the things that we provided. We have three access points for example. The neighbor here that wants cross-lot access has six in the same amount of frontage. The policy says that the purpose is to minimize driveway accesses. Providing cross-lot access certainly is not going to do that. We are providing traffic signals, and my own son got a ticket trying to avoid a traffic signal and going through the development.

BISHOP Of the driveways along Maize Road, are there any that have traffic lights connected to them?

GEORGE SHERMAN There is a traffic signal that we paid for that they just installed right here with the opening of Target, and there is a traffic signal that will be going in here at 29th. The widening of 29th to Tyler was just approved.

BOB KAPLAN, ATTORNEY for Spencer Cove, which is the retail center adjacent to the west. A few hours ago I received the correspondence that came to you on December 6th from Slawson Company. I was not included in that mail out. Slawson Company will not speak with us or met with us to resolve issues.

The site plan drainage, and site plan drainage; I do not do site planning and I do not do site plan drainage, and I do not do engineering. My comments were based on engineering opinions, which were elicited from those people responsible for the engineering of Spencer's Cove. Two of those letters, one from Poe and Associates, and one from Baughman Company are in your current Agenda Report, and are relevant to the drainage issue.

The site plan that was presented is labeled conceptual. And apparently that is what it is, a concept. When this was presented at the previous meeting the argument that was made is that this is what we are going to do, and this is why we can't have cross-lot. Now at that time I agreed that if a permit was issued which required this particular configuration that we would be able to adjust for any cost of the drainage, and we would accept the responsibility, if necessary, for the cost of bridging that drainage. That drainage issue and across the drainage issues, if it exists and if it is required, which we don't know, that is a platting issue.

They have a service drive in this location to the rear of the center. We are very comfortable with that. We can access the cross-lot from the west side from that service drive. The only issue between us is the solid screening wall to the west side of this service drive. I don't know what it is going to be if it is masonry or what, but it is intended to isolate Spencer's Cove from New Market. Why a solid screening wall should be build to isolate the adjacent shopping center you will have to figure that out. I don't know why that screening wall is not required.

Why cross-lot access is important to us is the ability of the public to access shops in both centers without having to use public roads should be a given. If the applicant is correct in their comments that it is more lot less dangerous to allow interior circulation; if they are correct about that then our Access Management Policy on that issue is faulted. That is not the case.

Tape change

KAPLAN It was a jurisdictional wetland, it was not a jurisdictional wetland, and they may require a joint drainage plan. We are going to have to work with the Corps of Engineering. We will handle our drainage on the east side of our parcel. We are going to box it. We are not going to use open surface draining. Mr. Sherman says he does not understand the open surface drainage concept. I don't know why he suggested that we would not handle our surface water. We will when we plat. I don't know why he suggested that he has a drainage plan that has DWR and City approval because he doesn't have a plat yet, because he doesn't have an approved drainage plan. Our request is simply that you recommend a condition for cross-lot access. The details of that will be figured at the time of platting.

MITCHELL Can you indicate to me where you would want the cross-lot access on the map?

KAPLAN We have discussed two points of cross-lot access, towards the south end, and a point towards the north area. We have not specified any point because that will depend a great deal on their site plan, and the Spencer Cove site plan and it should be addressed at Subdivision Committee.

MITCHELL If the building configuration is shown on this drawing is what is placed on the ground, can you describe to me the route that you would expect people to take from New Market to Spencer Cove and visa versa.

KAPLAN They would use the access to the west of New Market. They would use this service drive right here. We will need a couple of breaks in the screening wall at points to be agreed and discussed at Subdivision.

MITCHELL Once that traffic went to New Market or to Spencer's Cove, what would you expect the route to be then?

KAPLAN We would have interior circulation in Spencer's Cove, and people exiting would use one of the exits on 29th. You can not exit New Market and go west on 29th because it is a right-in/right-out, you will be able to do that if we have cross-lot which will provide an exit here because we have full turning movement.

MITCHELL Without signal? Do you think that it is as safe a plan to take them from New Market to Spencer's Cove west bound on 29th with no signal?

KAPLAN I think it is as safe as any left turn on any arterial. I have a graphic today to show people who are in support of the cross-lot access. Consumers and customers want to go from one shop to another without having to get out in that heavy arterial traffic on Maize, and soon to be on 29th Street.

BARFIELD Since our last meeting there has been no meeting or communication between both parties?

KAPLAN That is correct.

GAROFALO If the configuration of the structure of New Market in this site plan; it is not clear to me how people from New Market could get of to Spencer's Cove unless they go out on the street anyway, and make a left turn on that service drive.

KAPLAN We want Slawson to provide an access through here with a break in this masonry wall or whatever it is they intend to build that they are using to isolate us. If this is the site plan, and this building is as configured, then we will have to adjust our plan.

GAROFALO You are suggesting there will be a driveway?

KAPLAN It will be asphalt to asphalt.

GAROFALO If they built this the way that it shows on this map there will not be enough room.

KAPLAN That is why I want to meet with them and work this out. I think the obligation of this body is to make the decision to require cross-lot or not.

BISHOP If we were to require cross lot access, in your opinion, where the cross-lot would exist would remain to be worked out. It seems to me given the configuration for the plan right now there is only one likely spot for it, and that is at the far north end. The wall it seems to me makes good sense to buffer loading docks, trash bins, and outdoor storage.

KAPLAN The only person looking at it would be Spencer's Cove.

BISHOP I think a business ought to have some privacy in the area that they are unloading.

KAPLAN Why would a couple of breaks in the wall create that serious of a problem?

BISHOP Is the truck traffic, which is expected along that service road, is it going to be two way or one way? Because truck traffic going two ways will make it problematic coming out from between a wall on one side and a building on the other, and try to access 29th Street.

KAPLAN I don't know the answer to that question.

JOHNSON Mr. Kaplan, being an attorney, I have two scenarios. Lets say a Wal Mart truck pulls into that access lane there and is going to Wal Mart, and there is a cross-lot access and a customer is going to Spencer's Cove and the truck runs over the car on private property. From your experience, who would be involved in that lawsuit? Other side being if they were out on 29th or Maize Road and the same situation happened, how would that change things?

KAPLAN The ordinance governing public streets, alleys and by-ways, governs just those public areas, and it is not applicable to private property. So the City will not have the responsibility or liability. Beyond that, negligence is negligence and you have a party that is at fault.

BARFIELD Would the chances of that scenario be greater on public or private property?

KAPLAN I think greater on the public property.

DENISE SHERMAN Can we go back to 29th Street access road, it is a right- in/ and right out service road.

KAPLAN On the New Market site this access is right-in/right-out. We have access that has full turning movements in Spencer's.

DENISE SHERMAN Do you know how the buildings are going to face in New Market? Are they all going to face 29th?

KAPLAN Mr. Sherman will have to answer that.

DENISE SHERMAN I mean Spencer's Cove.

KAPLAN I do not know, we are not at that point.

DENISE SHERMAN Following up Commissioner Bishop's comment about the back end of this shopping center, my question is, if it is the back end of a development why would a customer even want to go between the two back ends of the developments? If you are looking at the back service end of a shopping center; if I were looking at two sides or two back ends, as a customer I wouldn't even want to go there.

KAPLAN I don't know how Spencer's Cove is going to be laid out.

DENISE SHERMAN If we do put this cross-lot access here they are still going to have to drive all the way around to get inside of these buildings by looking at this.

KAPLAN If you accept this configuration; if this is going to be a solid screening wall...

HENTZEN I went out there and where the buildings are already built on New Market Square they have a wide area of the wall to the buildings, and that wall is not any small thing. I think it is an 8-10 feet tall masonry wall, and I will tell you the entire length of New Market Square where the wall is was the cleanest back door I have seen in any of these malls. Now we are talking about that wall continuing up to 29th Street, and your recommendation is to cut holes in it, and I don't like that idea. I will say to you that if that owner of that property you are representing wants access to Maize Road then he should have bought property that has access to Maize Road.

MITCHELL Jess, I am looking at Subdivision Regulations, 7204 (m) Subheading 1 and 2, I read two that a cross-lot access agreement provided by the subject plat to the benefit of the adjoining property providing the adjoining would subsequently, upon platting, be required to dedicate access control, and in the above instances and the one before that, is joint access along common property lines required? These two items would appear to me not have any applicability to this case. What is your opinion?

MCNEELY We did not look at the Subdivision Regulations with this case; they become appropriate at the platting phase for subdivision. When we recommend cross-lot access it is almost exclusively in response to the Access Management Policy and not the Subdivision Regulations.

MITCHELL Is the Access Management Policy clear when it says cross-lot to mean across property?

MCNEELY That is the way that it has been interpreted from the Traffic Engineer, and that is the way that it has been interpreted within our Department.

BARFIELD Jess is it unusual for staff to make these requests for cross-lot access? What are those based on?

MCNEELY I would say that it is not unusual. In this case there was nothing that we saw that would prevent cross-lot access between these two properties, it is a standard recommendation just to be consistent with policy.

BARFIELD What is that recommendation based on when you make that decision, what factors?

MCNEELY It is completely based on the adopted Access Management Policy.

BARFIELD Does it have anything to do with traffic safety?

MCNEELY Yes, that is what the Access Management Policy is based on.

MARNELL Maybe I have missed something but in the time that we have done these cross-lots before but it seemed to me that the objective of it was to reduce the number of openings where people were entering arterial streets. Doing a cross-lot here, how many of those arterials street openings would be closed if that happened?

MCNEELY None, in this conceptual configuration it doesn't accomplish much being that the access to the New Market V service drive is just that, it is their service drive, and will only access the backs of their properties. One could drive through the service drive and eventually come around the south end of this building, and enter into the parking lot. In theory, one could take the service route to access their parking lot. In this case, Spencer Cove already has their access points as a part of their CUP, and you can see what the layout is for New Market V. They did not choose to access from their customer side to 29th, they chose to access with their service drive.

MITCHELL Did the staff recommend or require a cross-lot access agreement from Spencer's Cove?

MCNEELY That has been some debate. Whether or not it was originally recommended I don't believe that I know for a fact but at some point it became a part of the CUP. Staff agreed that CUPs that border other commercial properties; that this Access Management Policy would apply.

MITCHELL But it wasn't originally required?

GOLTRY I don't think it was originally required, and it was submitted on a revised CUP drawing but it was something that was added to the CUP during the process of brining it forward to the Commission.

MCKAY Don't we require a separate service drive for vehicles for delivery or whatever, so they don't intermingle and mix with the paying customers out front and the traffic problems that it would create? Yet in this here, with the recommendation that we want a cross-lot access and nobody utilizing that service road would not co-mingle these vehicles.

BISHOP It seems to me that we have required cross-lot access with most of the CUPs and this one is extremely problematic. I can't recall what we have done in terms of being specific about where the cross-lot access should be.

MILLER The policy nor staff dictates where it has to be, we just put a statement in there that indicates that there needs to be a provision in there, and then it is worked out when the applicant comes forward.

BISHOP It seems a time or two before because of drainage issues there was really only one possible place for it.

MILLER We may make a recommendation saying this is the most logical place but it is not typically staff's position to say the location.

MITCHELL Donna, if staff looked at the CUP first and didn't require or recommend and later did, what did they give up in exchange for that?

GOLTRY I don't recall. It had to do with stepping down the uses as it got closer to the single-family development which is immediately on their west side as I recall.

GEORGE SHERMAN This is not just a conceptual site plan but this is the plan. The Access Management Policy, I don't think it is faulty. I think it is a guideline. Mr. Kaplan mentioned the wall; it starts right here and our intention was to keep control of the trash and a signature of New Market. The location of this drive back here was purposefully placed. On the Target site we required them to take this driveway that comes around here to their truck drives, and we reinforced the paving in that area to handle semi-trailers, trash trucks and that sort of thing. This is a great design. We have added curves and some nice development here. We have an approved drainage plan from DWR to dig these and fill this property. Mr. Kaplan doesn't understand why we are so adamant about this; it goes with our whole concept here. You did ask us to negotiate with Mr. Kaplan and from the beginning we have been opposed to any connection between these properties. Our position is rooted in the plans of our development, our experience, and there is nothing to negotiate. If there was a point like the access we don't want any cross-lot access back there.

MARNELL I am not generally opposed to cross-lot, I am very much in favor of them and there are plenty of places in the City where every particular building had a driveway out on the main road, and cross-lot easements have been a benefit for the public and the businesses within the area for easier movement. I don't see it in this development at all. The traffic flows on this does not reduce any traffic problems. There will still be as many entries going on 29th Street and putting a cross-lot on there doesn't help either way. I don't see the benefit for either property. Although I voted for the cross-lot the last time, I don't think it is necessary after further review.

GAROFALO I think the last time we approved the cross-lot access only if they got together, and that they were going to get together and get something worked out. I supported that motion but I have great reservation about this proposal now and I question whether we want to put people out on the service road, and knock holes in walls. I don't see that great of a benefit.

WARNER My comment is that I have a problem with a cross-lot going onto this service road. But I will have another problem if this configuration changes. My opinion has changed as well.

BARFIELD Will it still take six votes of the City Council?

SCHLEGEL Yes, we have a protest petition on this, and for them to override the recommendation of the MAPC it will require six votes.

MARNELL The second time around? I thought it was simply majority the second time around.

MILLER There is a valid protest that will trigger the 6-0 vote.

BISHOP I believe that cross-lot access will generally be a safer situation. If we had a really firm Access Management Policy, and we routinely and consistently followed it I don't believe we would be presented with a design like this. The fact that is a service road gives me great pause and I think that is a mixing of traffic.

MOTION: To approve without the requirement of cross-lot access.

DOWNING moved, **HENTZEN** seconded the motion, and it carried (10-3). **BARFIELD, HERNANDEZ, BISHOP** opposed.

- 13a. **Case No.: CUP2004-50 DP280 Associated with (ZON2004-59)** – COF, LLC c/o Jac Jensik, and Kansas Bait & Tackle, LLC, c/o Steve Peebles (owners); MKEC Engineering Consultants, Inc, c/o Greg Allison (agent) Request Creation of North Ridge Village Community Unit Plan on property described as;

A tract of land in the Southeast Quarter of Section 28, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows:

COMMENCING at the Southeast corner of the North Half of the South Half of the North Half of the Southeast Quarter of Section 28, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence along the South line of said North Half of the South Half of the North Half on a Kansas South Zone Grid Bearing of S88°32'54"W, 60.00 feet to the **POINT OF BEGINNING**, thence continuing along said South line, S88°32'54"W, 2597.87 feet to the West line of said Southeast Quarter of Section 28; thence along said West line, N01°05'32"W, 987.08 feet to the Northwest corner of said Southeast Quarter; thence along the North line of said Southeast Quarter N88°32'25"E, 478.68 feet, thence S88°13'14"E, 200.27 feet; thence N88°41'35"E, 850.03 feet; thence S82°00'49"E, 1053.89 feet; thence S05°29'07"E, 316.45 feet; thence S01°35'09"E, 485.21 feet to the **POINT OF BEGINNING**. Generally located at the southwest corner of K-96 and Ridge Road.

and

- 13b. **Case No.: ZON2004-59 Associated with (CUP2004-50 DP280)** - COF, LLC c/o Jac Jensik, and Kansas Bait & Tackle, LLC, c/o Steve Peebles (owners); MKEC Engineering Consultants, Inc, c/o Greg Allison (agent) Request Sedgwick

County Zone change from "SF-20" Single-family Residential to "SF-5" Single-family Residential and "LC" Limited Commercial on property described as;

**DESCRIPTION OF
A TRACT TO BE REZONED TO SF-5**

A tract of land in the Southeast Quarter of Section 28, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows:

COMMENCING at the Southeast corner of the North Half of the South Half of the North Half of the Southeast Quarter of Section 28, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence along the South line of said North Half of the South Half of the North Half on a Kansas South Zone Grid Bearing of S88°32'54"W, 1746.37 feet to the **POINT OF BEGINNING**; thence along said South line S88°32'54"W, 911.46 feet to the West line of said Southeast Quarter; thence along said West line, N01°05'32"W, 987.08 feet to the Northwest corner of said Southeast Quarter; thence along the North line of said Southeast Quarter N88°32'25"E, 478.68 feet, thence S88°13'14"E, 100.13 feet; thence S19°51'27"E, 1034.40 feet to the **POINT OF BEGINNING**.

**DESCRIPTION OF
A TRACT TO BE REZONED TO LC**

A tract of land in the Southeast Quarter of Section 28, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows:

COMMENCING at the Southeast corner of the North Half of the South Half of the North Half of the Southeast Quarter of Section 28, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence along the South line of said North Half of the South Half of the North Half on a Kansas South Zone Grid Bearing of S88°32'54"W, 60.00 feet to the **POINT OF BEGINNING**, thence continuing along said South line, S88°32'54"W, 2597.87 feet to the West line of said Southeast Quarter of Section 28; thence along said West line, N01°05'32"W, 987.08 feet to the Northwest corner of said Southeast Quarter; thence along the North line of said Southeast Quarter N88°32'25"E, 478.68 feet, thence S88°13'14"E, 200.27 feet; thence N88°41'35"E, 850.03 feet; thence S82°00'49"E, 1053.89 feet; thence S05°29'07"E, 316.45 feet; thence S01°35'09"E, 485.21 feet to the **POINT OF BEGINNING**.

EXCEPT;

COMMENCING at the Southeast corner of the North Half of the South Half of the North Half of the Southeast Quarter of Section 28, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence along the South line of said North Half of the South Half of the North Half on a Kansas South Zone Grid Bearing of S88°32'54"W, 1746.37 feet to the **POINT OF BEGINNING**; thence along said South line S88°32'54"W, 911.46 feet to the West line of said Southeast Quarter; thence along said West line, N01°05'32"W, 987.08 feet to the Northwest corner of said Southeast Quarter; thence along the North line of said Southeast Quarter N88°32'25"E, 478.68 feet, thence S88°13'14"E, 100.13 feet; thence S19°51'27"E, 1034.40 feet to the **POINT OF BEGINNING**. Generally located at the southwest corner of K-96 and Ridge Road.

BACKGROUND: The applicant is requesting to create an eight parcel Community Plan containing approximately 52 net acres. The property is located on the south side of K-96 at the Ridge Road interchange. Parcels 5-8 have frontage on K-96 and Parcels 1 and 8 have frontage on Ridge Road. The property is long and narrow. One local nonresidential street is used to provide internal access. A roundabout located one-fourth mile west of Ridge Road would shorten the overall distance to a turn around point on the dead-end street.

The CUP would exclude the following uses entirely: adult entertainment establishment, residential use, recycling processing center, pawnshop, private club, nightclub, and tavern and drinking establishment.

Three parcels closest to Ridge Road are proposed for commercial/retail development; the other parcels are designed for office development. Specifically, Parcel 1 (1.47 acres), Parcel 2 (1.51 acres) and Parcel 8 (8.73 acres) would allow all uses permitted by right in the "LC" zoning district except those prohibited for the entire CUP. Parcel 3 (4.08 acres), Parcel 4 (4.26 acres), Parcel 6 (5.29 acres) and Parcel 7 (9.89 acres) are proposed for "LC" zoning but limited to uses permitted by right in the "GO" General Office zoning district plus the following five uses: personal care service; personal improvement service; printing and copying, limited; government service; and banking and financial institution. The requested "LC" zoning is to accommodate the request for considerably more signage than allowed by the "GO" zoning district by the Wichita Sign Code. Parcel 5 (16.85 acres), the western portion of the tract, is in the floodway of the Big Slough North and is limited to use as a floodplain, open space, drainage, lakes, landscaping and pedestrian access. It would be zoned "SF-5" Single-family Residential.

Ground signage would consist of one monument sign along K-96 with a maximum height of 30 feet and 300 square feet, to be used for shopping center identification and tenant signage. All remaining signs on K-96, Ridge Road, and Village Circle would be monument style signs limited to 20 feet in height; maximum sign face area would be 150 square feet for signs on K-96 and 100 square feet for signs on Ridge Road and Village Circle. The number of signs would be two per parcel on each street frontage except to allow three for Parcel 8 along Ridge and one for Parcel 6 on Village Circle, plus an additional sign for Reserve A. Spacing is 150 feet apart except reduced to 75 feet adjacent to the sign in Reserve A. Building wall signage would be limited to 20 percent of wall area, 150 square feet of area if one sign is placed on an elevation, or could be divided into three signs with a maximum area of 70 square feet each per elevation. Billboards, flashing, moving, portable signs and pennant signs would be prohibited.

Compatibility is provided for architecture and parking lot lighting. Maximum building coverage would be 30 percent and gross floor area would be 35 percent. Cross-lot circulation is required between parcels and with the parcels to the south in DP-250 Northridge Plaza CUP. Also, access easements corresponding to the access easements on Northridge Plaza are shown. This will connect the commercial development between K-96 and 37th Street North.

Height requested is 60 feet for the Parcels 3, 4, 6-8 to allow for possible multi-story office structures or a potential hotel, and 35 feet for Parcels 1 and 2. A building setback of 50 feet would be required for any structure over 35 feet in height. The building setback along Village Circle is shown as 25 feet, which is below the standard 35-foot setback for CUPs. Since Village Circle functions as an internal local nonresidential street, this setback may be adequate. The standard setback of 35 feet is shown for K-96 and the south property line.

The site is currently vacant. The property south, DP-250 Northridge Plaza is approved for commercial use but is vacant. The property southwest of the Big Slough North is being developed as a single-family subdivision. The farm east of Ridge Road is in agricultural use except for a cell tower in the middle of the property. The property north of K-96 is a mix of agricultural and single-family residences, with one non-conforming business to the northeast of Ridge and K-96.

CASE HISTORY: The property is unplatted. The northern half was approved for a nursery and greenhouse (CU-131, approved April 22, 1971), but apparently was never operated. Additionally, DP-252 Paragon CUP was filed in 2000, but never proceeded to MAPC for a public hearing at the applicant's request. The case was formally closed on October 18, 2001 after the property had been sold to a different owner. The southern part of the property was approved for a greenhouse subject to platting (CU-495, approved September 10, 1998), but never platted.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20"	K-96, agricultural, single-family residences, nonconforming business
SOUTH: "SF-5"; "LC"	Vacant but approved for commercial use
EAST: "SF-20"	Agricultural/farmstead, wireless communication tower
WEST: "SF-5"	Big Slough North, single-family subdivision

PUBLIC SERVICES: The 2004 traffic count on Ridge Road between K-96 and 37th Street North was 14,852 vehicles. The 2003 average daily traffic (ADT) for the K-96 eastbound off-ramp was 1,045 vehicles per day and the ADT for the eastbound on-ramp was 5,705 vehicles per day. The 2030 projection for Ridge Road between K-96 and 37th Street North is 20,000 ADT. The projection includes traffic impacts of the potential northwest bypass.

Currently, Ridge Road is improved as a four-lane county arterial. One full movement opening is requested at Village Circle. The opening would be 470 feet south the KDOT right-of-way and 650 feet north of the potential signalized access in Northridge Plaza. A right-in/right-out opening is shown on the south property line. The CUP has complete access control (no openings permitted) onto K-96.

A rough estimate of traffic that could be generated by the development would be approximately 7,100 vehicles per day for the commercial/retail tracts and 7,200 vehicles per day for the office/commercial tracts. The estimate is based on typical average trip generation rates of 40 vehicles per day for general retail use and 20 vehicles per day for general office use, although the amount can vary significantly by type of retail/restaurant or office use. In particular, drive-through use increases vehicle trip generation rates. This may be balanced by a reduction in projected trips from pass-by trips and multi-purpose shopping trips. The applicant chose not to prepare a traffic study to obtain a more detailed estimate of trip generation and impact on the road network, and to guarantee the following traffic improvements: (1) southbound decel lane into Village Circle, (2) northbound left turn lane into Village Circle, (3) continuous accel/decel lane from Village Circle to the south property line, and (4) signalization at Village Circle if warranted. The proximity of Village Circle to the potential signal 650 feet to the south makes these points very close for signals; probably only one location would be desirable.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the majority of the tract as appropriate for "commercial" development and the western portion (Big Slough) for "residential" use.

Commercial/Office Strategy III.B.1 seeks to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations; **Strategy III.B.3** seeks to limit access points along arterial streets. **Commercial Locational Guideline #3** and **Office Guideline #1** of the Comprehensive Plan recommend sites adjacent to arterial streets.

The proposed CUP is generally in conformance with the Comprehensive Plan Land Use Guide, commercial objective/strategies and land use locational guidelines for planned commercial and office development. **Objective X.E** to improve the appearance of visual corridors should be supported by office type development along K-96 since office uses have less outdoor storage/service types of needs than most retail uses.

RECOMMENDATION: The use of the parcels nearest Ridge Road for commercial/retail use and the remaining developable tracts for office park development plus a limited number of lighter type commercial uses (banks, personal care services, etc) is a good blend for the long configuration of the tract and its highly visible location along K-96. It is located east of a significant streambed, the Big Slough North that buffers the CUP from residential development to the west. The proposed commercial uses are similar to those approved for the property to the south. Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2004-59) subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-280), subject to the following conditions:
 - 1. The applicant shall guarantee the following improvements at time of platting: (a) southbound decel lane into Village Circle, (b) northbound left turn lane into Village Circle, (c) continuous accel/decel lane from Village Circle to the south property line, and (d) signalization at Village Circle if warranted and approved by the Traffic Engineer.

2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
4. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
5. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-280) includes special conditions for development on this property.
6. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is currently vacant. The property south, DP-250 Northridge Plaza is approved for commercial use but is vacant. The property southwest of the Big Slough North is being developed as a single-family subdivision. The farm east of Ridge Road is in agricultural use except for a cell tower in the middle of the property. The property north of K-96 is a mix of agricultural and single-family residences, with one non-conforming business to the northeast of Ridge and K-96.
2. The suitability of the subject property for the uses to which it has been restricted: The area is less suitable for residential use than commercial/office use due to its location along a freeway and major arterial, and the good separation of the tract from residential use to the west by the Big Slough North.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The rezoning and CUP could increase the likelihood of a commercial development request for the property to the east of Ridge Road.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the majority of the tract as appropriate for "commercial" development and the western portion (Big Slough) for "residential" use. **Commercial/Office Strategy III.B.1** seeks to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations; **Strategy III.B.3** seeks to limit access points along arterial streets. **Commercial Locational Guideline #3** and **Office Guideline #1** of the Comprehensive Plan recommend sites adjacent to arterial streets. The proposed CUP is generally in conformance with the Comprehensive Plan Land Use Guide, commercial objective/strategies and land use locational guidelines for planned commercial and office development. **Objective X.E** to improve the appearance of visual corridors should be supported by office type development along K-96 since office uses have less outdoor storage/service types of needs than most retail uses.
5. Impact of the proposed development on community facilities: The left turn lane into Village Circle and right turn accel/decel lanes are needed to mitigate increased traffic on Ridge Road. The proximity of Village Circle to the potential signal 650 feet to the south makes these points very close for signals; probably only one location would be desirable.

MOTION: To approve, subject to staff recommendations.

MCKAY moved, **WARNER** seconded the motion, and it carried (12-0).

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14. **Case No.: ZON2004-58** – John Torres and Ronald Franks (owners/applicants); Savoy Company PA, Mark Savoy and Gary Snyder (agents) Request Zone change from "SF-5" Single-family Residential to "NO" Neighborhood Office on property described as;

Lots 1, 2, 3, & 4, R. Beard Addition, Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Douglas and Tyler.

BACKGROUND: The application area is 1.04 acres located at the northwest corner of Douglas and Tyler, and is zoned SF-5, Single-family Residential. The applicants are seeking NO, Neighborhood Office zoning to allow the site to be developed for office uses. The acreage is platted as the R. Beard Addition and involves four lots that remain undeveloped today. The ownership of the application area is divided between the two applicants. One co-applicant owns the northern two lots while the other co-applicant owns the southern two lots. The northern most two lots are oriented east-west towards Tyler. The southern most lots are oriented north-south towards Douglas.

There is platted access control along Tyler that permits one 30-foot wide break in access control that is located 192 feet north of the Tyler and Douglas intersection. There are not any platted access controls located along Douglas. Douglas, at this location, is a two-lane residential street. Tyler is a four-lane arterial.

The plat also contains platted setbacks. Twenty-five foot setbacks have been established along the Tyler and Douglas frontages. A 15-foot utility easement is also located along the west property line.

No site or development plan has been submitted (and is not required) that would indicate the development scheme.

All surrounding property is zoned SF-5, Single-family Residential and developed with single-family homes. The nearest non-residential zoning relative to the application area is located over 600 feet to the south.

The SF-5 district has the following setback requirements: front-25 feet, rear-20 feet and interior side-six feet. Maximum building height is 35 feet. The NO district has the following setback requirements: front-20 feet, rear-10 feet and interior side-zero or five feet. Maximum building height is 35 feet. The NO district permits four commercial "by-right" uses: automated teller machine, medical service, general office and wireless communication facility. These four use types are individually restricted by code to a maximum gross floor area of 8,000 square feet.

Compatibility side and rear building setbacks will be required. Compatibility height standards restrict building heights located within 50 feet of lot lines to 35 feet or less. For each three feet of setback beyond 50 from the lot line, the building height can be increased one foot in height. Dumpsters and refuse containers must be located 20 feet from any property zoned TF-3 or more restrictive.

CASE HISTORY: The R. Beard Addition was recorded in 1992.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential; residences

SOUTH: SF-5 Single-family Residential; residences

EAST: SF-5 Single-family Residential; residences

WEST: SF-5 Single-family Residential; residences

PUBLIC SERVICES: Tyler is a four-lane arterial street carrying approximately 21,600 average daily trips. Tyler has 50 feet of half street right of way abutting the application area. Current arterial street standards call for 60 feet of half street right-of-way. Douglas has 30 feet of half street right of way, which is consistent with current standards. All typical municipal services are available to this location. At 30 percent coverage, this site could allow 13,68 square feet of building coverage, which could generate 143 average daily trips.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide map depicts this site as appropriate for "low density residential" uses. Office uses would not be consistent with the "low density residential" designation. The Comprehensive Plan's office location guidelines state: office uses should be generally located adjacent to an arterial; local, service-oriented offices should be incorporated within or adjacent to neighborhood and community scale, commercial development and low density office use can serve as a transitional land use between residential and higher intensity uses. In general, the plan stipulates that non-residential uses are to be located at the intersections of arterial or collector streets, and striping out of arterial streets is undesirable.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

However, if the Planning Commission feels the request is appropriate the following Protective Overlay is recommended:

1. Any building(s) constructed on the site should be residential in character (e.g. rooflines should be hip or gable roof; exterior facade materials typical of residential construction should be wood, brick or stucco or similar materials). If multiple buildings are constructed on the site, they should share similar exterior materials and colors. Predominate exterior building colors should be muted.
2. Signage shall be per the sign code, except that all ground or pole signs shall be monument type, and no building signs shall face south, west or north.
3. Parking lot lighting standards shall not exceed 14 feet in height.
4. Access from Douglas shall be limited to one driveway located in the western one-third of the Douglas street frontage.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Properties surrounding the application area are all zoned SF-5 Single-family Residential and developed with single-family residential uses. Tyler is a four-lane arterial street carrying approximately 21,000 average daily trips that is probably impacting the desirability of lots fronting Tyler for use as residential sites. However, the vast majority of the homes in the area of the application are well maintained and there appears to be reinvestment in these properties. By and large, this neighborhood appears to be a stable, single-family residential neighborhood.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is vacant, but it could be developed as currently zoned. The site is zoned SF-5 as is all other nearby properties. The closest nonresidential land is over 600 feet away from the site.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval would introduce uses not currently permitted on nearby properties; such uses would not be in character with existing nearby uses. Office uses generate more average daily traffic, introduce larger signage and more lighting than is found in typical single-family residential neighborhoods. Approval could encourage other property owners seek similar zoning up and down Tyler that would detrimentally impact Tyler's ability to carry the traffic it was designed to carry.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** If approved, presumably this request would generate more economic return for the applicants than developing the site as currently zoned. From the public's standpoint, approval of this request would be a case of spot zoning and

antithetical to the community's adopted plan that encourages the use of zoning as one of the tools to promote and enhance neighborhood stability and investment.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: This request is not in conformance with adopted office location guidelines. If approved, it would be a case of spot zoning in an inappropriate location (mid-mile) that does not provide a transition from more intense zoning to less intense zoning nor does it provide a buffer from more intense uses to less intense uses.
6. Impact of the proposed development on community facilities: Non-residential traffic would increase, but other facilities are in place to serve an office development.

DALE MILLER Planning staff This application is to go from "SF-5" Single-family Residential to "NO" Neighborhood Office. Staff is recommending denial, primarily because, as you can see on the map, this site is located in an ocean of Single-family Residential zoning developed with single-family homes, all in this area except for that one lot. We feel this would be like spot zoning. There is an over 20 percent protest that has been filed, so when this goes to City Council it will trigger the super-majority vote.

District V recommended approval, 3-2-1, but they added four condition if the Planning Commission felt this is appropriate. District V felt that the fact that this property has been vacant since whenever the farmstead was torn down, and has sat there all this time unused was important. I think that is what was more compelling in their minds; that something was better than a vacant lot.

District V added that the applicants give up this access point on Tyler (pointing to the map), and that all access is to come off Douglas. They eliminated wireless communication as a permitted use. They wanted a 35-foot height restriction. They wanted an updated drainage plan.

MARNELL When they talked about wireless communication, I assume that was primarily a tower?

MILLER Right.

MITCHELL I can't tell what the width, east-west, of that parcel is but if you took an additional 10 feet for Tyler does that make the lot difficult or un-useable?

MILLER I don't know, I would defer to the applicant if that would make things more difficult.

HENTZEN Is that a pipeline that goes there?

MILLER Not that I am aware of.

HENTZEN That has been sitting there vacant for 40 years?

MILLER What they testified was that the original farmstead was there and was torn down, and it has never been developed since.

MARK SAVOY, Agent, We are in agreement with the DAB's recommendation for approval for "NR" Neighborhood Retail, except for the loss of the access point to the north half of the property. The north two lots are owned by one individual, while the south two lots are owned by another individual. I don't think they mind having some cross-lot access between them but it makes direct access to that north parcel pretty awkward. The south parcel is owned by a dentist, and he would like to put his own business there so you will be driving through that property to get to the property to the north if you don't have access. We would like a full access, left and right turn. But we did discuss with them that we would be willing to consider right-turn in and right-turn out which would avoid left turn conflicts in that close of a distance to Douglas. One of the DAB members that voted against it was because he didn't think that it was right to take away the access points.

GAROFALO Did you say that the DAB approved the "NR" Neighborhood Retail?

SAVOY I am sorry that was "NO" Neighborhood Office.

MITCHELL Would dedicated additional right-of-way for Tyler make the lot impossible or difficult to develop?

SAVOY You can see that Tyler Road has a 40-foot half street right-of-way. This property was replatted in 1992; it dedicated an additional 10-foot for a 50 foot right-of-way. It is about 190 feet in depth from east to west. So I don't know that it would be a particular killer.

GARY SNYDER, Agent I have been involved with this property for 10 years and we have tried to put a house on it. Nobody wants to pull out on Tyler with 21,000 cars a day. I took the time to get these two applicants together. I suggested that they limit the number of access points, so that they do a cross-circulation, and cross easement agreement, so that there would be one access, right-in/right-out, on the north lot, and we have the other exit on Douglas. If you would make that recommendation I think I could get that done.

DUNLAP Do you have a contract purchaser or are you going to deal with two separate people?

SNYDER These people have owned this property for 14 years. They are both separate owners. I got both people to sign one application because I thought that was the best way to bring it to you.

CRAIG HOGUE, 8833 W. Douglas, Wichita, KS 67209 We have already signed a protest petition, and there are eight individuals in a very close proximity that have signed a petition as well. The staff report is very well done. It has some specific problems with that site, and one is the arterial street 50-foot setback where an arterial like this should have a 60-foot setback. I believe there may be in

some plans a desire to increase Tyler as a more major artery, which will come up in the future. This is residential property. It was developed with single-family, and a vast majority of the homes are well maintained, and it is a neighborhood. There has never been to my knowledge a for sale sign on the property. It is four lots so in a rezoning we could have four separate issues. We do have bar ditches on Douglas; it is not a curb and gutter street so it will not accept additional traffic. In the event you choose to go with the rezoning, I would like to add that Douglas would need to be improved at the first block lots' back, and that any easements or turn lanes or traffic or drainage recommendation be taken out of that rezoned lot, and any expenses be given to that rezoned lot. I would request this Board deny this application.

HAROLD KETCHERSIDE, 8813 West Douglas, Wichita, KS 67209 I did type a letter and submit it, and I hope everyone got a copy. I have lived here 15 years and when I purchased my home I looked at buying those lots, and they were for sale and I was informed that they were four residential lots, and that I couldn't put duplexes on them so I went ahead and passed on that. We are already getting a lot of traffic on Douglas. Q-trip is right here on the corner of Maple and Tyler, and my driveway gets a lot of traffic from that because they can't turn out of Q-trip and go toward Kellogg very well because of all the traffic. They can't turn left out Q-trip to go on Maple to go back east because of all the traffic. So what they do is take the easy way and turn right out of Q-trip, and the first left is Douglas then hang a left there. They are continually in and out of my driveway, backing up so they can go back to Tyler and turn right, and get out of there. My basic concern is that this is a residential neighborhood. This property can be built on with what it was originally zoned, and what it was zoned 15 years ago when I checked on it.

BARFIELD Are you a protest petitioner?

KETCHERSIDE Yes.

GARY SNYDER I would like to point out that this particular street has grown commercial, and we only have five houses that are setting there. There is mini-storage, a dentist office, and a hair shop in the neighborhood. We didn't come in here to try and change the neighborhood. We came and checked with staff and talked about if we could do "NO" Neighborhood Office how we might do it so we can do it residential in nature, pitched roof, brick, similar to houses that are already there.

DENISE SHERMAN Both of those houses were developed how long ago?

SNYDER Probably 40 years ago.

MOTION: To Deny.

BISHOP moved, **BARFIELD** seconded the motion.

BISHOP I really don't like to see the assumption go forward that because there is a lot of traffic on an arterial that it necessarily must strip out to commercial or office, or more intense uses when it is backing up to residential. I would think something along the lines of duplex would be a good buffer.

MARNELL This is difficult for me because if that land has been vacant for a long period of time. I can tell you if I was looking for a lot for somewhere to build a house I don't think that would be it for two reasons. The traffic, coming out onto that street, and so if it is not going to develop residentially then you say property owners have some kind of right to use that land. On the flip side, that is stripping out.

JOHNSON I am familiar with this area. This is a tough decision and you basically have three lots that face Tyler that presently could have a driveway on each lot.

MILLER There is platted access control. They are only getting one driveway.

JOHNSON They are good-sized lots, that are large. A good friend of mine had to build a turn around in the front yard so he could get out on Tyler. The thing about right-in/right-out would be good.

BARFIELD Mr. Snyder, you indicated these properties have been held by these two owners for 14 years?

SNYDER That is my understanding yes.

BARFIELD Are you aware if these properties have been marketed for single-family residential?

SNYDER We have a residential department, and I am in the commercial division and they have numerous times tried to do residential development. When they did the access control it really kind of ruined the whole idea trying to do residential development. I came back into the picture in 1994, and started to look at what we could do. We can't find a builder who would be buying these lots that would want to build because of the way the access is. Office oriented service could benefit the neighborhood.

MITCHELL I understand Commissioner Bishop concerns about the stripping out of an arterial street, but just as sure as we are going to have winter that street will strip out and some unusual problem on Tyler because of those large lots that were created when this was a suburban large lot area.

HENTZEN See that red spot on the picture, I think that is the house that got burned. It used to sit out on Tyler. The owner of that house built his office on the back of the lot and did a super job. Code Enforcement had to come out and get rid of the burnt house.

BISHOP It seems there is a failure of imagination. I think there is going to be an increasing need for small flats that are all on one level.

SHERMAN I think it is inevitable that no matter what you do this land is going to stay vacant, and if they can make it conform, look like the neighborhood, I think it would be a good use of the land rather than let be vacant.

SUBSTITUTE MOTION: To approve, subject to conditions contained in the staff report, plus one right-in/right-out opening on Tyler Road, plus the 10 foot dedication of right-of-way on Tyler, plus the DAB recommendations of elimination of the wireless communication facility, update of the drainage plan, limiting building height to 35 feet and cross-lot access.

HENTZEN moved MITCHELL seconded the motion.

BARFIELD The applicant asked for cross-lot access is that part of the motion?

HENTZEN I don't have any trouble on that.

SUBSTITUTE MOTION CARRIED: 9-3. BARFIELD, BISHOP and GAROFALO opposed.

15. **Case No.: CON2004-41** – Westar Energy c/o Cindy Risch (owner/applicant) Request Sedgwick County Conditional Use for an electrical substation on property zoned "RR" Rural Residential on property described as;

Lot 1, Clearwater Substation Addition, Sedgwick County, Kansas. Generally located At the southeast corner of 87th Street South and 167th Street West.

BACKGROUND: Westar Energy is requesting a Conditional Use for a major utility to permit an electrical substation to be located on the southeast corner of 87th Street South and 167th Street West on 3.65 acres zoned "RR" Rural Residential. The subject property is located within the Zoning Area of Influence of the City of Clearwater. A major utility may be permitted with the approval of a Conditional Use in the "RR" Rural Residential zoning district.

The attached site plan and sample photograph show electrical substation equipment contained within a compound enclosed with a chain link fence and with evergreen landscaping providing screening from adjoining properties in conformance with the screening requirements of the Unified Zoning Code. The applicant indicates that the electrical substation equipment will be approximately 30 feet tall. The applicant indicates that the City of Clearwater has a growing demand for electricity, and that the proposed electrical substation is needed to meet projected needs. The applicant indicates that the site was chosen based upon the following criteria: 1) the site is owned by Westar Energy and has been a proposed future electrical substation site since 1977; 2) the site is located immediately under existing transmission lines; and 3) the site not located close to existing residential areas (see attached document).

CASE HISTORY: The subject property is platted as the Clearwater Substation Addition, which was recorded July 7, 1978.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential - agriculture
SOUTH: "RR" Rural Residential - agriculture
EAST: "RR" Rural Residential - agriculture
WEST: "RR" Rural Residential - agriculture

PUBLIC SERVICES: Both 87th Street South and 167th Street are unpaved section line roads. No personnel are assigned to the site, with personnel visits occurring about once a month. Therefore, the facility will have minimal impact on county provided services. The approval of this request will enhance the delivery of electric service to the Clearwater area.

CONFORMANCE TO PLANS/POLICIES: Both Sedgwick County's and Clearwater's plans are silent regarding the siting of utilities such as the proposed electrical substation. The subject property is located far outside the future growth area for Clearwater as identified in both Sedgwick County's and Clearwater's plans. Prudent planning principles indicate that the electrical substations should be located so they facilitate the orderly growth of the county and the communities they serve.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The site shall be developed and operated in general conformance with the approved site plan. All improvements shall be completed prior to commencement of operations.
2. Screening by evergreen vegetation as required by the Unified Zoning Code shall be installed and maintained in general conformance with a landscape plan approved by the Planning Director.
3. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding property is in agricultural use and is zoned "RR" Rural Residential. The application area is rural in character. The proposed electrical substation is compatible with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and could be used as presently zoned. However, the site is located immediately under transmission lines and, therefore, is the most logical location for an electrical substation.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will not detrimentally impact nearby property as electrical facilities of this type are located throughout the county, and adequate screening will be provided. The request is well in advance of development providing ample time for nearby property owners to plan accordingly.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Electrical service is used by everyone, and there is a need to adequately provide the service in the most efficient manner possible.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Both Sedgwick County's and Clearwater's plans are silent regarding the siting of utilities such as the proposed electrical substation. The subject property is located far outside the future growth area for Clearwater as identified in both Sedgwick County's and Clearwater's plans. Prudent planning principles indicate that the electrical substations should be located so they facilitate the orderly growth of the county and the communities they serve.
6. Impact of the proposed development on community facilities: Approval of the request will improve the delivery of electrical service throughout the county.

MOTION: To approve, subject to staff recommendations.

MCKAY moved, **WARNER** seconded the motion, and it carried (12-0).

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16. **Case No.: CON2004-38** – William and Linda Warren (owners) Request Sedgwick County Conditional Use for accessory, temporary mobile home on property zoned "SF-20" Single-family Residential on property described as;

The South Half of the Northwest Quarter of the Southwest Quarter of Section 4, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Generally located East of Webb Road and north of west 31st Street South.

BACKGROUND: The applicant is requesting a Conditional Use for a temporary, accessory manufactured home dwelling in the County. The application area is a 20-acre un-platted parcel located east of South Webb Road and north of West 31st Street South, and developed with a single-family residence and garage. All surrounding property is zoned SF-20; agricultural properties lie east and west of the application area, farmsteads border the application area to the north and south. The applicants propose to place the requested manufactured home south of the existing residence, between the residence and the garage. Sedgwick County Code Enforcement requires building and sanitary sewage system approval for the proposed use.

The applicants state that a hardship requires the requested Conditional Use. The manufactured home is for their widowed elderly mother who requires assistance due to a medical condition.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20"	farmstead
SOUTH: "SF-20"	farmstead
EAST: "SF-20"	agricultural fields
WEST: "SF-20"	agricultural fields

PUBLIC SERVICES: The property is located on South Webb Road, a paved two-lane section line road with a 30-foot half-width right of way. The property has water utility, and utilizes an existing lagoon for sewage.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as "low density residential."

The *Wichita-Sedgwick County Unified Zoning Code* Section III-D.6.1(3) lists temporary, accessory manufactured home dwellings in the County as a Conditional Use subject to the following conditions and requirements: (a) The location of the manufactured home shall conform to all setback requirements of the district in which located; (b) If the property is not served by a public water supply and municipal type sewer system, the minimum lot size shall be determined by the County Health Department; (c) The unit shall comply with all of the standards of Secs. III-D.6.1(1) and III-D.6.1(2); (d) The applicant shall show due cause that hardship exists and that the hardship cannot reasonably be alleviated without the granting of the Conditional Use; and (e) The Planning Commission shall determine a reasonable time limit for each individual case. The manufactured home shall be removed from the property within 90 days after any change in circumstances used as a basis for the Conditional Use.

The *Wichita-Sedgwick County Unified Zoning Code* defines a "manufactured home" as one or more mobile components constructed to meet the 42 U.S.C. 5403 HUD Code, providing all accommodations necessary to be a dwelling unit, and connected to all utilities in conformance with a applicable regulations.

RECOMMENDATION: Planning staff finds that the application meets the conditions of the Unified Zoning Code Section III-D.6.I(3). Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions.

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning. Specifically, the requirements of Section III-D.6.I(3) of the Unified Zoning Code shall be met.
2. The manufactured home shall meet the post 1976 42 U.S.C. 5403 HUD Code.
3. The accessory home shall remain on the site as an accessory dwelling for the applicant's mother as long as she resides on the site. The applicant shall report to the County Code Enforcement Office on a yearly basis, every January, the status of the occupancy of this manufactured home.
4. The manufactured home shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.
5. Development and maintenance of the site shall be in conformance with the approved site plan.
6. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is zoned SF-20 and used for agricultural purposes. The proposed manufactured home site is over 1,100 feet from the Webb Road right-of-way.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20, which primarily permits large lot residential uses. The site could continue to be used without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that the proposed manufacture home meets all applicable codes, and because of the temporary nature of the requested Conditional Use, the proposed accessory use should have no affect on the surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested conditional use is in conformance with the *Wichita-Sedgwick County Comprehensive Plan* and the *Wichita-Sedgwick County Unified Zoning Code* Section III-D.6.I(3) provisions for accessory manufactured home dwellings in the County.
5. Impact of the proposed development on community facilities: None identified.

MOTION: To approve, subject to staff recommendations.

MCKAY moved, **WARNER** seconded the motion, and it carried (12-0).

❖ **PLANNING COMMISSION ITEMS**

17. Other matters/adjournment.

The Metropolitan Area Planning Department informally adjourned at 5:27 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2004.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)

